

Richard Martin 8/5/2008
In Re: Viagra Products Liability Litigation

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: * MDL Case No. 1724
*
VIAGRA PRODUCTS LIABILITY *
LITIGATION *
*

This document relates to: *

RICHARD MARTIN, *
*
Plaintiff, *

vs. *

PFIZER INC., *
*
Defendant. *

CASE NO. 06-CV-1064 (PAM) *
*

DEPOSITION OF
RICHARD MARTIN

Taken August 5, 2008
Commencing at 9:31 a.m.

REPORTED BY: MARY P. MITCHELL, RDR, CRR, CCP
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1 Deposition of RICHARD MARTIN taken on
2 August 5, 2008, commencing at 9:31 a.m., at the law
3 firm of Oppenheimer, Wolff & Donnelly LLP, 3300
4 Plaza VII Building, 45 South Seventh Street,
5 Minneapolis, Minnesota, before Mary P. Mitchell,
6 Registered Diplomat Reporter, Certified Realtime
7 Reporter, Certified CART Provider, and Notary Public
8 of and for the State of Minnesota.
9

APPEARANCES

12 On Behalf of the Plaintiff:
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NOTE: The original transcript will be filed
24 with Kaye Scholer LLP, pursuant to the applicable
25 Rules of Civil Procedure.

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1 RICHARD MARTIN,
2 duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. LESKIN:

Q. Good morning, Mr. Martin.

A. Good morning.

Q. As I introduced myself a little while ago,
my name is Lori Leskin. With me is Avigael Fyman.
We're from the firm of Kaye Scholer, and we
represent Pfizer in this matter.

A. Okay.

Q. Have you ever had your deposition taken before?

A. No.

Q. Okay, I'm sure your attorney has given you
some instruction and some background, but let me go
over some of the ground rules so we all know what's
going on today.

A. Okay.

Q. I'm going to ask you a bunch of questions,
and the court reporter is going to take down
everything I say and all of the answers that you
give me.

A. Okay.

Q. Okay? You have been administered an oath

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WITNESS: RICHARD MARTIN PAGE

EXAMINATION BY MS. LESKIN..... 4
Afternoon Session..... 134

OBJECTIONS:

By Ms. Hauer: 40, 83, 157.

INSTRUCTIONS NOT TO ANSWER: (None.)

PRODUCTION/INFORMATION REQUESTS: 44, 81, 84, 88,
132, 138, 147, 203, 207.

EXHIBITS MARKED AND REFERRED TO:

EXHIBIT 1: Plaintiff's Fact Sheet,
executed 8/13/06..... 38, 130, 146
(No Bates)

EXHIBIT 2: Complaint for Richard Martin vs.
Pfizer, Inc., filed 3/15/06..... 201
(No Bates)

(Original exhibits attached to original transcript;
copies provided to counsel.)

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just like if we were in court.

A. Mm-hmm, yes.

Q. So I'm going to ask and expect that your
answers will be truthful. Will your answers be
truthful today?

A. Absolutely, yeah.

Q. Okay. Because the court reporter is taking
everything down, it's very important that only one
of us speak at a time.

A. Okay.

Q. She can't take down two people at the same
time. So if you let me finish my question, I'll let
you finish your answers. Does that sound fair?

A. Fine.

Q. Okay. And again, because the court reporter
is taking everything down, everything needs to be
verbalized.

A. Okay.

Q. It's very important that you answer with a
yes, no, or a complete answer.

A. Okay.

Q. Instead of a nod of the head or a shrug of
the shoulders. Okay?

A. Okay.

Q. If you need a break, please let me know, I'm

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1 happy to take a break.
2 A. Okay.
3 Q. All I ask is that if I have a question
4 pending, that you answer my question before we take
5 a break.
6 A. Oh, okay.
7 Q. Okay? If your attorney makes an objection,
8 unless she instructs you not to answer, you still
9 have an obligation to answer my question if you're
10 able to.
11 A. Okay.
12 Q. Okay? If you don't understand my question,
13 please let me know and I'll be happy to either
14 repeat it or rephrase it. But if you answer my
15 question, I'm going to assume you understood what I
16 was asking.
17 A. Okay.
18 Q. I do have a tendency to talk fast, so if I
19 do get too fast for you, if the court reporter
20 doesn't kick me first, then you can just let me
21 know.
22 A. All right.
23 Q. Okay. How are you feeling today?
24 A. Just fine. Little apprehensive, never been
25 into an attorney's office, except for a will.

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1 Q. Okay. Well, I understand that, and
2 hopefully we will not make this very painful. I'm
3 just looking for some information about the lawsuit
4 that you've brought against Pfizer. Okay?
5 A. Yeah.
6 Q. Did you take medications today?
7 A. Today?
8 Q. Yes.
9 A. I took a 10 milligram of lisinopril.
10 Q. And is that for your blood pressure?
11 A. That's for my blood pressure, yup.
12 Q. Did you take any other medications today?
13 A. No, I took a half an aspirin.
14 Q. And what is the aspirin for?
15 A. Well, that's, I guess that's for to keep
16 your blood thin.
17 Q. Okay. And you take that every day?
18 A. I usually take that every day, yeah.
19 Q. Other particular days you don't take
20 aspirin?
21 A. Only when I forget.
22 Q. Okay. Are there any other medications you
23 generally take on a daily basis?
24 A. I haven't been taking anything for quite
25 some time now. I've just quit 'em.

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1 Q. Okay. Is that under the advice of your
2 doctor?
3 A. I have talked to my doctor about it, yes.
4 Q. And did your doctor recommend that you stop
5 taking medications?
6 A. He said it was more or less up to me.
7 Q. Okay. And we'll talk a little bit more
8 about that as we go on today.
9 Does the lisinopril at all affect your
10 ability to answer my questions today?
11 A. Lisinopril?
12 Q. Yes.
13 A. No.
14 Q. Okay. I just -- before we get started, I
15 also just want to make sure you understand that my
16 intention today isn't to embarrass you or to harass
17 you, but given the nature of the litigation and the
18 claims involved, some of the questions may be of a
19 personal and intimate nature.
20 A. I understand.
21 Q. Okay, I just hope you understand that.
22 I have your birth date from your records as
23 December 6, 1933. Is that correct?
24 A. That's right.
25 Q. Okay, and where were you born, sir?

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1 A. I was born here in St. Paul.
2 Q. Okay. And have you lived in this area your
3 entire life?
4 A. I've lived in this area, yes, all my life,
5 except for when I was in the service and I spent
6 some time in Norfolk, Virginia when I was in the
7 service.
8 Q. And what were the years you were in the
9 service?
10 A. I was in the Navy. And I was on the Norfolk
11 Naval Air Station for almost two years.
12 Q. And what years were those?
13 A. That would be from fifty -- let's see, that
14 would be from '54 to '55.
15 Q. Were you ever stationed anywhere else other
16 than Norfolk, Virginia?
17 A. I was, I went to school, some service
18 schools. One in Norman, Oklahoma. And one in
19 Memphis, Tennessee. And I spent four months on USS
20 Currituck cruising the Mediterranean Sea.
21 Q. Was that the only time you were overseas?
22 A. Yes, with the Navy.
23 Q. With the Navy.
24 A. With the Navy, yes.
25 Q. You vacationed overseas?

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Page 10	<p>1 A. I vacationed overseas and I've worked</p> <p>2 overseas.</p> <p>3 Q. Okay. Where have you worked overseas?</p> <p>4 A. I've worked in Sweden. Norway. Germany.</p> <p>5 Let me see. That would probably be it on the</p> <p>6 overseas.</p> <p>7 Q. Okay, and how long were you in Sweden for</p> <p>8 when you worked there?</p> <p>9 A. I was there twice. Once I was there for two</p> <p>10 weeks, and then another time I was there for a</p> <p>11 little over a month.</p> <p>12 Q. And how long were you in Norway when you</p> <p>13 worked there?</p> <p>14 A. Norway, I was only there a couple of days.</p> <p>15 Q. And how long were you in Germany when you</p> <p>16 worked there?</p> <p>17 A. In Germany I was in two -- two or three</p> <p>18 weeks in Germany.</p> <p>19 Q. And what was the nature of the work there?</p> <p>20 A. I was a mechanic -- or a lead, a lead</p> <p>21 mechanic or a crew chief, whatever you wanted to</p> <p>22 call it.</p> <p>23 Q. Okay. Whatever you call it.</p> <p>24 A. Yeah, well, some, you know -- I -- we did</p> <p>25 mechanical work on the aircraft.</p>	Page 12	<p>1 A. Yes.</p> <p>2 Q. And you worked your way up to head crew</p> <p>3 chief or lead mechanic?</p> <p>4 A. Yes.</p> <p>5 Q. And when did you leave Northwest Airlines?</p> <p>6 A. I retired in December 31st of '93.</p> <p>7 Q. And why did you choose to retire?</p> <p>8 A. Well, there was two things. I had a wife</p> <p>9 that had been fighting cancer for ten years and she</p> <p>10 was very sick. And the company made me an offer</p> <p>11 that was kind of hard to refuse. So I retired.</p> <p>12 Q. Okay. As of the date of your retirement,</p> <p>13 what was your position?</p> <p>14 A. I was crew chief or lead -- lead mechanic.</p> <p>15 Q. Okay. And since you retired from Northwest</p> <p>16 Airlines, have you worked?</p> <p>17 A. I have.</p> <p>18 Q. Okay, in what positions?</p> <p>19 A. I worked for Whip Air, it's, they make --</p> <p>20 they repair aircraft, they make aircraft floats, and</p> <p>21 they do a lot of, like I say, aircraft repair. And</p> <p>22 I worked for them for quite some time. I don't</p> <p>23 remember exactly how long, it's probably a couple of</p> <p>24 years.</p> <p>25 And then I worked for the owner on his own</p>
Page 11	<p>1 Q. Okay, and this was when you worked for</p> <p>2 Northwest Airlines?</p> <p>3 A. Yes.</p> <p>4 Q. And when did you start working for Northwest</p> <p>5 Airlines?</p> <p>6 A. August 1st, 1958.</p> <p>7 Q. That was after you left the Navy?</p> <p>8 A. Yes.</p> <p>9 Q. Was that your first job outside the Navy?</p> <p>10 A. No, that was not my first job. I worked at</p> <p>11 three other jobs before that. I worked at Northwest</p> <p>12 Aeronautical for about a year. I worked at</p> <p>13 Minnesota Aeromotive for about a year. And I worked</p> <p>14 at Hamm's Brewing Company for about a year.</p> <p>15 Q. Okay. Now, the first two, were you a</p> <p>16 mechanic at both of those positions?</p> <p>17 A. Yes.</p> <p>18 Q. And what were you at the brewery? What was</p> <p>19 your position there?</p> <p>20 A. I was just a laborer at the brewery because</p> <p>21 I got laid off from Minnesota Aeromotive.</p> <p>22 Q. Okay. And then you went to work for</p> <p>23 Northwest Airlines?</p> <p>24 A. Then I went to work for Northwest Airlines.</p> <p>25 Q. And you started as a mechanic there?</p>	Page 13	<p>1 private aircraft, rebuilding and repairing some of</p> <p>2 his aircraft in his own private hangar.</p> <p>3 Q. Okay. So Whip Air was the first position</p> <p>4 you held after Northwest?</p> <p>5 A. Yes.</p> <p>6 Q. And did you start there right away after you</p> <p>7 retired?</p> <p>8 A. Pretty much so, yes.</p> <p>9 Q. And you said it's been a couple years?</p> <p>10 A. About a couple years, yeah.</p> <p>11 Q. And what did you do for them?</p> <p>12 A. I worked rebuilding aircraft, different</p> <p>13 types of aircraft, a lot of mechanical work.</p> <p>14 Q. And you said after a couple years you went</p> <p>15 to work for the owner on a private basis?</p> <p>16 A. Yes.</p> <p>17 Q. And how long did you do that for?</p> <p>18 A. Right until -- I could still be working for</p> <p>19 him now if I could see.</p> <p>20 Q. Okay. So when you started having your eye</p> <p>21 problems, is that when you stopped working?</p> <p>22 A. That's when I, well, I had to quit work</p> <p>23 because I couldn't see what I was doing.</p> <p>24 Q. Okay, and so that was in 2002?</p> <p>25 A. Yes.</p>

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<p>1 Q. And since you left that position in about 2 2002, have you worked at all? 3 A. No. 4 Q. Are you able to see at all now? 5 A. I can't see nothing out of my right eye. I 6 can see you. I can't see your faces very -- if I 7 seen you in the hallway right now I would not 8 recognize you again, unless you spoke and I 9 recognized your voice. 10 Q. Okay. And that's vision out of your left 11 eye? 12 A. That would be the vision out of my left eye, 13 yeah. 14 Q. Are you able to read? 15 A. No. 16 Q. If we review documents today, we'll ask your 17 attorney to help you. 18 A. My attorney would have to read everything 19 for me. 20 Q. Okay. 21 A. No matter how big it would be, I still 22 couldn't -- still wouldn't be able to see. I can 23 only see partial words. Say if it's a long word, I 24 can see the front half and then maybe the half half, 25 then I have to try to put it together.</p>	<p>1 Q. And I understand from reviewing some of the 2 records that Florence passed away in 1995? 3 A. Yes. 4 Q. Okay. And you have remarried since then? 5 A. Yes. 6 Q. And that would be to Carole? 7 A. Yes. 8 Q. And you and Carole are still married? 9 A. Yes. 10 Q. When did you and Carole get married? I 11 won't tell her. 12 A. In June 19th, '96. 13 Q. Do you have any children? 14 A. I had five. And I have four living. 15 Q. Okay. And the five children are with 16 Florence, is that right? 17 A. They are what? 18 Q. Were they from your marriage with Florence? 19 A. Yes. 20 Q. Do you have any children with Carole? 21 A. No. 22 Q. And I understand that you have one son who 23 did pass away at age 35 from a heart attack? 24 A. Yes, yup. 25 Q. Is that right? Tell me the names of your</p>
Page 15	Page 17
<p>1 Q. Okay. We'll do the best we can if there's 2 any documents we need to ask you to review. 3 A. Okay. 4 Q. Where do you currently reside? 5 A. I live at 6804 Blaine Avenue in Inver Grove 6 Heights. 7 Q. Okay. And how far is Inver Grove Heights 8 from here? 9 A. It is between 20 and 25 miles from here I 10 would say. 11 Q. Okay. And how long -- I'm sorry? 12 A. Pardon? 13 Q. Finished your answer? 14 A. No, I don't know what I was going to say. 15 Q. Okay. And how long have you lived at that 16 address? 17 A. Since 1962. 18 Q. Okay. And you own that house? 19 A. Yes. 20 Q. Now, you mentioned that at the time that you 21 retired from Northwest Airlines you had been married 22 to a woman who was fighting cancer? 23 A. Yes. 24 Q. And that was Florence? 25 A. Yes.</p>	<p>1 other four children. 2 A. Linda. 3 Q. Linda? 4 A. Linda. Richard, Jr. Roger. And Russell. 5 Q. And your son who passed away, what was his 6 name? 7 A. Robert. 8 Q. How old is Linda? 9 A. Linda is 53. 10 Q. And does Linda have any children? 11 A. She has three children. 12 Q. How is Linda's health? 13 A. How is Linda's health? Well, I think it's 14 good. I don't see her that often. I'm going to see 15 her after this today 'cause she's just driving up 16 from Dallas/Fort Worth, she's going to stay with me 17 for a day. And then she's going to go up and see 18 her husband's mother in Glenwood. 19 Q. Okay. 20 A. And one of her children live up in around 21 Glenwood. 22 Q. Okay, so you said you don't get to see Linda 23 that often? 24 A. No, I haven't seen Linda for over a year. 25 So I honestly couldn't tell you -- the last I heard</p>

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<p>1 is she sprained her ankle, couldn't walk on her 2 ankle very well. That was all she had conveyed to 3 me. 4 Q. Do you talk to her on the phone? 5 A. Once in a while. Not very often. 6 Q. How long has she lived in Texas? 7 A. Let's see, it's got to be going on about 8 five years. Yeah. 9 Q. And where did she live before that? 10 A. She lived up on the farm near Glenwood, 11 Minnesota. Grove Lake would be about a half mile 12 from their farm. 13 Q. And when she lived up in Minnesota did you 14 see her more often then? 15 A. I did. 16 Q. How often would you see her? 17 A. Well, whenever I would drive up there and 18 stuff. That's how I met my, my second wife, on the 19 farm when I went up to visit her. And my 20 son-in-law, we went over to his mother's farm, and 21 that's where his aunt was sitting there and I was 22 talking to her. And her husband had just passed 23 away about a year earlier. And we just got to 24 talking and that's how I met her. 25 Q. So Linda's husband's aunt is your wife? Did</p>	<p>1 A. Oh, man. What a mental block. 2 I've just got a mental block. 3 Q. I'm sorry? 4 A. Can we come back to that. 5 Q. Absolutely. 6 A. I'll have -- I've got a mental block. I 7 just talked to her the other day, it's just -- I 8 don't know. 9 Q. So Richard Jr. has two children, a boy and a 10 girl. 11 A. Yes. 12 Q. The boy is also Richard Jr.? 13 A. Yes. 14 Q. And I won't tell that you forgot the girl's 15 name momentarily. 16 A. Please. 17 Q. We'll come back to that. How old are those 18 children, do you know? 19 A. Rick is I think 25. 20 Q. And his daughter? 21 A. I think she's about 23. 22 Q. And how is Richard Jr., your son's, health? 23 A. The only thing I could tell you that I know 24 he does is he takes blood pressure medication, 25 that's all I could tell you. Otherwise --</p>
Page 19	Page 21
<p>1 I understand that relationship correctly? 2 A. Let's see, Linda's husband -- it's my, it's 3 my wife's nephew, yes. 4 Q. Your wife's nephew is your daughter's 5 husband? 6 A. Yes. 7 Q. Okay, yes, okay. 8 A. Yeah. 9 Q. Linda's children, how old are they? 10 A. I think Stephen is, I think he's 26. I 11 think Allie is around 20 or 21. I think she's 21 12 now. And Christian is, I think he's 12. 13 Q. And how are their health? 14 A. I could not tell you. 15 Q. Let's talk about Richard Jr. How old is 16 Richard Jr.? 17 A. Rich is 52. 18 Q. And is he married? 19 A. Yes. 20 Q. And does he have children? 21 A. He has two, a boy and a girl. 22 Q. And what are their names? 23 A. Richard Jr. and Allie -- I'm sorry, now I'm 24 tongue-tied. 25 Q. That's okay. Take your time.</p>	<p>1 Q. Okay. Where does Richard Jr. live, your 2 son? 3 A. Where does he live? He lives in Inver 4 Grove, about a mile and a half from me. 5 Q. Okay, and how often do you see your son? 6 A. I see him at least twice a week. He drives 7 right by the house when he's going home from work, 8 so he stops in. And we, you know, we see each other 9 quite a bit. 10 Q. And then Roger is your next son? 11 A. Roger, yes. 12 Q. And how old is Roger? 13 A. Roger is, I think he's 50. 14 Q. And is Roger married? 15 A. Yes. 16 Q. And does he have any children? 17 A. He has two children. 18 Q. Do you remember their names? 19 A. Michaela and Collin. 20 Q. And how old is Michaela? 21 A. Michaela I think is, I think she's 11. 22 Q. And Collin? 23 A. And Collin, I think he is 8. 24 Q. And how is Roger's health? 25 A. Pardon?</p>

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<p>1 Q. Roger.</p> <p>2 A. Roger's health? I think, I think his health</p> <p>3 is all right, 'cause he's a health nut and he</p> <p>4 exercises constantly. And he's wore out his hips</p> <p>5 and his back and he's had both hips replaced and has</p> <p>6 had surgery on his back. And as far as anything</p> <p>7 else, I couldn't tell you.</p> <p>8 Q. Okay. And how often do you -- where does</p> <p>9 Roger live?</p> <p>10 A. Roger lives in Apple Valley, about 23 miles</p> <p>11 from our place.</p> <p>12 Q. Okay. And how often do you get to see</p> <p>13 Roger?</p> <p>14 A. Probably once a month or -- yeah, maybe once</p> <p>15 a month. Or maybe sometimes more.</p> <p>16 Q. And then the last is Russell?</p> <p>17 A. Russell.</p> <p>18 Q. And how old is Russell?</p> <p>19 A. Russell is, I think Russell's 47.</p> <p>20 Q. And is Russell married?</p> <p>21 A. No.</p> <p>22 Q. Has he ever been married?</p> <p>23 A. No.</p> <p>24 Q. Does he have any children?</p> <p>25 A. I think he has two girls.</p>	<p>1 Q. And what was the natural child's name?</p> <p>2 A. Bob.</p> <p>3 Q. Bob?</p> <p>4 A. Bob, yeah, Robert Jr.</p> <p>5 Q. And how old is Bob now?</p> <p>6 A. Let me see. He's probably, he's probably</p> <p>7 about 19 or 20. I'm not sure, I haven't seen</p> <p>8 them -- I haven't seen them since my son died.</p> <p>9 Q. And when did that happen?</p> <p>10 A. That was in December 31st of '93.</p> <p>11 Q. So it was the same time you retired?</p> <p>12 A. Yes. Two weeks -- about three weeks after I</p> <p>13 retired.</p> <p>14 Q. Prior to his passing, had he been diagnosed</p> <p>15 with diabetes?</p> <p>16 A. Has -- has he was?</p> <p>17 Q. Yes.</p> <p>18 A. Yeah, he had severely -- severe diabetes.</p> <p>19 Q. And when was he first diagnosed with</p> <p>20 diabetes?</p> <p>21 A. He wouldn't really say, but I would say</p> <p>22 about three years prior to that.</p> <p>23 Q. And was he good at treating his diabetes do</p> <p>24 you know?</p> <p>25 A. No.</p>
Page 23	Page 25
<p>1 Q. Okay. And how old are they? And what's</p> <p>2 their names, first of all?</p> <p>3 A. Golly, I can't remember, I haven't seen them</p> <p>4 for 15 years. They gotta be about 19 now.</p> <p>5 Q. Are they twins?</p> <p>6 A. Twins, yup.</p> <p>7 Q. And where does Russell live?</p> <p>8 A. He lives in Inver Grove Heights. And he</p> <p>9 lives about a mile from my house.</p> <p>10 Q. And how often do you get to see Russell?</p> <p>11 A. I seen Russell last night.</p> <p>12 Q. Okay.</p> <p>13 A. And -- I see him maybe once a week or once</p> <p>14 every two weeks.</p> <p>15 Q. Okay. We talked about a lot of -- so you</p> <p>16 have nine grandchildren, is that?</p> <p>17 A. I would say that's pretty accurate.</p> <p>18 Q. Is that right?</p> <p>19 A. Mm-hmm.</p> <p>20 Q. Robert, who you talked about passed away,</p> <p>21 was he married at the time?</p> <p>22 A. He was married at the time, yes.</p> <p>23 Q. And did he have any children?</p> <p>24 A. He had one natural child with his wife and</p> <p>25 one adopted.</p>	<p>1 Q. He was not good?</p> <p>2 A. No. He was not.</p> <p>3 Q. And is that your understanding of what led</p> <p>4 to ultimately his heart attack?</p> <p>5 A. He had -- his carotid arteries were almost</p> <p>6 completely blocked, from the autopsy.</p> <p>7 Q. And you said you have not spoken to his</p> <p>8 children since Robert passed away?</p> <p>9 A. No, not since the funeral.</p> <p>10 Q. So your other grandchildren, do you see</p> <p>11 them?</p> <p>12 A. Well, I see, I see them quite a bit, yeah,</p> <p>13 my kids --</p> <p>14 Q. I'm sorry?</p> <p>15 A. Dick's kids and Roger's kids. And, and</p> <p>16 Chris, when he comes up. And Linda's son and</p> <p>17 daughter, I see them once in a while, but not very</p> <p>18 often.</p> <p>19 Q. Chris would be Christian, is that?</p> <p>20 A. Christian, yes.</p> <p>21 Q. I just want to make sure I didn't miss any</p> <p>22 children. Do you have any great-grandchildren?</p> <p>23 A. I think I do.</p> <p>24 Q. Okay. And whose children would that be?</p> <p>25 A. That would be Stephen's girlfriend.</p>

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Page 26	<p>1 Q. Okay.</p> <p>2 A. And I think what I heard recently that they</p> <p>3 had another one. They're not married.</p> <p>4 Q. Okay. Have you seen those children?</p> <p>5 A. I seen 'em once last year, just the girl.</p> <p>6 Q. Okay.</p> <p>7 A. For a couple hours. And Allie, she has a</p> <p>8 little boy I just found out not too long ago. And</p> <p>9 she's not married.</p> <p>10 Q. Okay. Any other great-grandchildren?</p> <p>11 A. I don't know if you'd call Russell's twins</p> <p>12 great-grandchildren. No, they would just be</p> <p>13 grandchildren. No, not that I know of, no.</p> <p>14 Q. Do any of your grandchildren have any health</p> <p>15 issues that you're aware of?</p> <p>16 A. No.</p> <p>17 Q. And do any of them have any diabetes that</p> <p>18 you know of?</p> <p>19 A. I could not tell you that, I don't know.</p> <p>20 Q. Okay.</p> <p>21 A. I don't think so. I have not heard. I'm</p> <p>22 sure if they had I would have heard, you know.</p> <p>23 Q. Other than the property, your house where</p> <p>24 you live in -- Inver Grove Heights? Is that right?</p> <p>25 A. Mm-hmm.</p>	Page 28
Page 27	<p>1 Q. Do you own any other property?</p> <p>2 A. Yes.</p> <p>3 Q. Where do you own property?</p> <p>4 A. I have a cabin up on Sauk -- Sauk Lake in</p> <p>5 Sauk Centre, Minnesota.</p> <p>6 Q. Is that like a fishing/hunting cabin?</p> <p>7 A. Yes.</p> <p>8 Q. And how often do you get over there?</p> <p>9 A. Well, we don't get in there during the</p> <p>10 winter, it probably is closed for six months. We</p> <p>11 use it off and on during the summer. I think</p> <p>12 probably we'll get up there maybe six to eight or</p> <p>13 nine times this year. My kids use it sometimes, you</p> <p>14 know, they're welcome to use it all the time, so</p> <p>15 they do.</p> <p>16 Q. Any other property that you own?</p> <p>17 A. I have 80 acres of woodland up by Vergas,</p> <p>18 Minnesota.</p> <p>19 Q. Okay.</p> <p>20 A. V-E-R-G-A-S.</p> <p>21 Q. Is any of that developed?</p> <p>22 A. No, that's all woods.</p> <p>23 Q. And do you --</p> <p>24 A. I bought it to hunt on it, to hunt deer on</p> <p>25 it.</p>	Page 29

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Page 30	<p>1 A. I haven't been duck hunting or pheasant 2 hunting since I've lost my vision. 3 Q. I want to talk a little bit now -- I talked 4 a lot about your children. I want to talk now about 5 the rest of your family, your parents and your 6 siblings. 7 A. Mm-hmm. 8 Q. You mentioned that you still have, you still 9 have a brother, correct? 10 A. I have an older brother. 11 Q. An older brother. 12 A. And a younger brother. 13 Q. And are they still living? 14 A. My older brother died. My younger brother 15 is still living. 16 Q. Okay. And when did your older brother pass 17 away? 18 A. Let me see. I think he was about, I think 19 he was about 55 or 58. I'm not sure exactly how old 20 he was when he died. 21 Q. When was it that he passed? 22 A. Pardon? 23 Q. When was it that he died? 24 A. When was it that he died? I think it was in 25 the mid-'80s I'd say. I don't know the exact date,</p>	Page 32	<p>1 Q. And how old is -- 2 A. Ron. 3 Q. I'm sorry? 4 A. Ronald is his name. 5 Q. And how old is Ronald? 6 A. Ronald's two years younger than me. 7 Q. And how is Ronald's health? 8 A. Ronald's health? I can't tell you really 9 much about how his health is. He doesn't talk about 10 it much. 11 Q. Are you aware of any cardiovascular 12 problems? 13 A. The only thing I can tell you what he had 14 done recently is he had cataract surgery. 15 Q. Okay. 16 A. That's about all I can tell you about. I 17 know he has leg cramps once in a while. And that's 18 about as much as he'll tell me. 19 Q. So you don't know whether or not he has any 20 heart conditions? 21 A. Oh, not that I know of, no. 22 Q. Or whether or not -- 23 A. Or diabetes? No. His wife has severe 24 diabetes, but he does not, yeah. 25 Q. Okay. Do you have any other siblings?</p>
Page 31	<p>1 I'm sorry. 2 Q. That's okay. And what did he die from? 3 A. He had a massive heart attack. 4 Q. Prior to his heart attack had he had any 5 other cardiovascular history or disease or 6 diagnosis? 7 A. That I couldn't tell you. But I can tell 8 you that he lived in New York up until prior to 9 about a year and a half before he moved back home. 10 And he had just got a divorce from his wife of like 11 30 some years. She divorced him because he was an 12 alcoholic. 13 Q. Okay. 14 A. And he had lost his job. And he come back 15 here. He was under a tremendous amount of stress. 16 And he got a job here and he went through Hazelden 17 for a month. And when he come back with that he 18 started drinking again. 19 And he married, but they were having 20 problems, and he was under stress with that. So I 21 imagine that's what caused his heart attack, he was 22 under a lot of stress. 23 Q. You said you also have a younger brother 24 who's living? 25 A. Yes.</p>	Page 33	<p>1 A. No. Just us three boys is all. 2 Q. Now, I understand your mother has passed 3 away as well? 4 A. Yes. 5 Q. And she was in her 80s when she died? 6 A. She was 87, if I'm not mistaken, 87 or 88. 7 Q. Okay. And when did she pass away? 8 A. She passed away two months after my wife 9 died. 10 Q. And what did your -- 11 A. November. 12 Q. I'm sorry? 13 A. In November. The exact date, I don't 14 remember the exact date. But it was two months 15 after my wife died. 16 Q. And what did she die from? 17 A. She had Alzheimer's disease. 18 Q. Did she have any other health issues that 19 you're aware of? 20 A. She never talked about her health. I could 21 not tell you what. 22 Q. There's some indication in the records that 23 she may have been diabetic? 24 A. That is the doctor's assumption. 25 Q. Okay.</p>

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<p>1 A. That's the doctor's assumption that he said 2 she may have had diabetes. I cannot tell you that. 3 And she never said she did. So that's his 4 assumption. 5 Q. Do you know what he was basing that 6 assumption on? 7 A. Just that she had Alzheimer's disease. I 8 have no idea what she was taking as far as 9 medication. She would never say. And when she got 10 Alzheimer's disease, I don't know if she was on any 11 medication or not. She died in a nursing home. 12 Q. How long had she been in the nursing home? 13 A. She was in a nursing home for about I'd say 14 close to four years. 15 Q. Do you know if anyone had reviewed any of 16 her records from the nursing home, any of her 17 medical records or medical care? 18 A. You mean recently or? 19 Q. At any point in time. 20 A. Well, I know she had a doctor seeing her. 21 But that's all I could tell you. 22 Q. And did you ever get a copy of those 23 records, her medical records? 24 A. No, no, I did not. 25 Q. Your father also died?</p>	<p>1 assuming that he died of a heart attack. I could 2 not tell you. My dad did not talk about his medical 3 problems. 4 Q. Are you aware of any other relatives who 5 have had heart problems, whether it be grandparents 6 or aunts or uncles? 7 A. Well, my grandpa lived with us until he was 8 in his mid 80s, and then he lived with my aunt until 9 he was almost 90. And what he died of, I have no 10 idea. 11 My grandma on my, my mother's side, she died 12 when I was, when I was probably 7 or 8 years old. 13 And I could not tell you what she died of. 14 And my grandma lived with us for several 15 years on my dad's side. And she died in her late 16 80s. And I could not tell you -- and she lived with 17 us for a while and then she lived with another one 18 of her sons until she passed away. And I couldn't 19 tell you what she died of either. 20 I have seven aunts and seven uncles on my 21 mother's side. And most of 'em lived in their 80s 22 and early 90s. I could not tell you what they all 23 died of. 24 Q. Are you aware of any medical complications, 25 though, that any of them had, whether it be heart</p>
Page 35	Page 37
<p>1 A. Yes. 2 Q. And he was 51? 3 A. Oh, no, no. No. My dad? 4 Q. Yeah. 5 A. My dad was 70 -- I think my dad was 78 when 6 he died. 7 Q. And when did he die? 8 A. Exact date, I don't remember, I'm sorry. 9 Q. Do you remember the year? 10 A. No, I'm sorry. 11 Q. And what did he die from? 12 A. I don't know. The doctor -- my dad, from 13 what I can remember -- he never told me what he had. 14 He never, he never said anything about his medical 15 history. 16 Q. There's some indication in the records that 17 he had a heart attack. Are you aware of that? 18 A. That is the assumption what the doctor said. 19 Q. Okay. 20 A. He did not -- the reason why I don't know is 21 because he told my mother that he did not ever want 22 to have an autopsy. 23 Q. Okay. 24 A. So you can guess what he had. And that's 25 what I told the doctor. And apparently he's</p>	<p>1 conditions or diabetes? 2 A. I'm not sure if my Uncle Herbert had heart 3 problems. He was the first one that I know that had 4 died, you know, the earliest. But I don't know 5 what, I don't exactly know how old Uncle Herb was 6 and I'm not sure what he died of. And one -- I had 7 one aunt that had a stroke. 8 Q. Mm-hmm? 9 A. And she was 90 something when she passed 10 away. But my other aunts and uncles, I couldn't 11 tell you what they died of. 12 Q. Are you aware if any of them had any vision 13 problems at all? 14 A. No, I know some of 'em wore glasses, you 15 know. 16 Q. Okay. But as far as you know, none of them 17 had lost any vision? 18 A. Loss of eye vision, no. 19 Q. Can you tell me your educational background. 20 A. Grade school and high school. 21 Q. Did you ever do any classes in college? 22 A. No, I never went to college. I went to -- I 23 went in the Navy three days after I got out of high 24 school. I went to some service schools. 25 Q. Is that where you learned to be a mechanic?</p>

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<p>1 A. Yes.</p> <p>2 Q. Did you take any training classes other than</p> <p>3 the ones you took in the Navy?</p> <p>4 A. No.</p> <p>5 Q. Did you ever have any medical training?</p> <p>6 A. Medical training? No.</p> <p>7 Q. Did you ever have any legal training?</p> <p>8 A. Legal? No.</p> <p>9 Q. What does your wife do?</p> <p>10 A. Well, my wife -- right now? She's just,</p> <p>11 just a regular housewife, she stays home and -- she</p> <p>12 had worked before we got married. But if you talk</p> <p>13 to her, she can probably explain it more than I can</p> <p>14 where she had worked.</p> <p>15 Q. Okay. But since you've been married she has</p> <p>16 not worked?</p> <p>17 A. No, no.</p> <p>18 (Martin Deposition Exhibit No. 1</p> <p>19 marked for identification.)</p> <p>20 Q. Mr. Martin, we marked Exhibit 1. And your</p> <p>21 attorney can help you review whatever you need to</p> <p>22 have help reviewing, document called Plaintiff's</p> <p>23 Fact Sheet in this litigation. And you'll see your</p> <p>24 name appears on the first page where it asks for the</p> <p>25 case caption.</p>	<p>1 yourself of the accuracy of the answers in this</p> <p>2 document prior to signing the declaration that you</p> <p>3 just confirmed?</p> <p>4 A. I was -- the accuracy?</p> <p>5 Q. Yes.</p> <p>6 A. I would say I'm very accurate. I'd say a</p> <p>7 hundred percent.</p> <p>8 Q. My question, though, is what did you do</p> <p>9 personally to assure yourself that the document</p> <p>10 answers were accurate before you signed it?</p> <p>11 A. Well --</p> <p>12 MS. HAUER: I'm going to object to form</p> <p>13 just because I don't understand the question.</p> <p>14 Q. Okay, well, I'll rephrase. Do you</p> <p>15 understand my question, sir?</p> <p>16 A. Not really.</p> <p>17 Q. Okay. The declaration, the signature that</p> <p>18 we just pointed out.</p> <p>19 A. Yes.</p> <p>20 Q. Says, "I declare under penalty of perjury</p> <p>21 that all of the information provided in this</p> <p>22 Plaintiff's Fact Sheet is true and correct to the</p> <p>23 best of my knowledge, information and belief, that I</p> <p>24 have supplied all the documents requested in Part</p> <p>25 XIV of this declaration, to the extent that such</p>
Page 39	Page 41
<p>1 Have you reviewed this document at any time</p> <p>2 in the past?</p> <p>3 A. If this is the one that my wife reads to me,</p> <p>4 it possibly is.</p> <p>5 Q. The document asks for certain information</p> <p>6 about your background and your history.</p> <p>7 A. Mm-hmm.</p> <p>8 Q. Your use of Viagra and other medications.</p> <p>9 A. Mm-hmm. I'm sure this is probably the one.</p> <p>10 Q. Okay, and your wife helped you complete</p> <p>11 that?</p> <p>12 A. Well, absolutely.</p> <p>13 Q. If you look at the last -- ask you to turn</p> <p>14 to the last page of the document.</p> <p>15 A. I can turn to it, I can't see it.</p> <p>16 Q. Okay. And I understand it's difficult for</p> <p>17 you to see. There's a signature on that last page.</p> <p>18 Are you able to make out the signature?</p> <p>19 A. Let me see here. I've got a pair of glasses</p> <p>20 to help somewhat. (Examining.) That looks like my</p> <p>21 scribbling.</p> <p>22 Q. Okay. And you signed that on or about</p> <p>23 August 13th, 2006?</p> <p>24 A. Yes.</p> <p>25 Q. Can you tell me what you did to assure</p>	<p>1 documents are in my possession or in the possession</p> <p>2 of my lawyers, and that I have supplied the</p> <p>3 authorizations attached to this declaration."</p> <p>4 A. That's right.</p> <p>5 Q. Okay? So my question is what did you do</p> <p>6 to -- well, let me start again.</p> <p>7 I'm assuming, and maybe that's an incorrect</p> <p>8 assumption, that you did not in fact read this</p> <p>9 document personally?</p> <p>10 A. I cannot read it.</p> <p>11 Q. Okay, so you did not read this document?</p> <p>12 A. My wife read it to me, yes.</p> <p>13 Q. Okay, and your wife read every question and</p> <p>14 every answer?</p> <p>15 A. Yes, yes.</p> <p>16 Q. Okay, and is that how you assured yourself</p> <p>17 that the answers in this document were in fact true</p> <p>18 and correct?</p> <p>19 A. Yes, yes.</p> <p>20 Q. Okay. That was the question.</p> <p>21 A. Okay.</p> <p>22 Q. Did your wife or you type up the answers in</p> <p>23 this fact sheet?</p> <p>24 A. I gave the answers to my wife and she, she</p> <p>25 either wrote 'em or typed 'em, whatever, however you</p>

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Page 42	<p>1 got 'em.</p> <p>2 Q. Okay. Do you know whether she hand-wrote</p> <p>3 them or typed them?</p> <p>4 A. I think she hand-wrote 'em.</p> <p>5 Q. Okay. Do you know who typed them?</p> <p>6 A. I don't -- no, I don't.</p> <p>7 Q. And do you know whether at the time that you</p> <p>8 signed the declaration, that's the last page of</p> <p>9 Exhibit 1, whether it was attached to the typed form</p> <p>10 or a handwritten form?</p> <p>11 A. No, it was typed. And I -- my wife and I</p> <p>12 went through it several times to make sure</p> <p>13 everything was correct on it.</p> <p>14 Q. Okay. I want to direct your attention to</p> <p>15 page 3. And your attorney can help you with what</p> <p>16 the contents of the page says.</p> <p>17 Section I asks for information about</p> <p>18 employment. And No. 1 you have listed your current</p> <p>19 or last employer as Northwest Airlines, Inc., with</p> <p>20 dates of employment of August 1st, 1958 to December</p> <p>21 31st, 1993, indicating that you retired on December</p> <p>22 31st, 1993.</p> <p>23 A. Yes.</p> <p>24 Q. Question No. 2 says: "Identify each</p> <p>25 employer in the last ten years, dates of such</p>	Page 44	<p>1 A. Yes.</p> <p>2 Q. Did you receive any benefits as part of</p> <p>3 those jobs?</p> <p>4 A. No.</p> <p>5 MS. LESKIN: Well, we would ask that</p> <p>6 the fact sheet be amended to reflect whatever</p> <p>7 information he's claiming occurred, including any</p> <p>8 information regarding any lost wage claim. Since</p> <p>9 according to this, there does not appear to be a</p> <p>10 lost wage claim.</p> <p>11 MS. HAUER: We will update the fact</p> <p>12 sheet with any information.</p> <p>13 THE WITNESS: I'm sorry that got by me,</p> <p>14 I could have -- I should have probably put that</p> <p>15 down. You know, it wasn't really a --</p> <p>16 BY MS. LESKIN:</p> <p>17 Q. Okay, I just wanted to make sure we didn't</p> <p>18 miss anything.</p> <p>19 A. Yeah.</p> <p>20 Q. Have you filed for Social Security since</p> <p>21 you've left work?</p> <p>22 A. Oh, yes.</p> <p>23 Q. And are you receiving Social Security?</p> <p>24 A. Yes.</p> <p>25 Q. And is that as account of age or is that</p>
Page 43	<p>1 employment and position held." And there are no</p> <p>2 answers left there.</p> <p>3 Now, you told me earlier that you held two</p> <p>4 jobs after leaving Northwest Airlines?</p> <p>5 A. Yes, I did.</p> <p>6 Q. Is there a reason you did not include that</p> <p>7 information in this fact sheet?</p> <p>8 A. The jobs that I had were -- I had kind of a,</p> <p>9 an understanding that I could come and go. I didn't</p> <p>10 want a full-time job, and so I just kind of come and</p> <p>11 went at Whiplinger Aircraft whenever I wanted to.</p> <p>12 Because I had already retired. And when I talked to</p> <p>13 the owner, I said, "Well, I'll work, but I want to</p> <p>14 make my own hours and I'll just come and go, you</p> <p>15 know, as I please, I don't want a full-time job."</p> <p>16 So maybe I mis -- maybe I misunderstood the</p> <p>17 question if you wanted a full-time employment or.</p> <p>18 But I did work there quite a bit.</p> <p>19 Q. Okay. Did you receive a salary?</p> <p>20 A. No. I was paid by every hour that I worked.</p> <p>21 I used a timecard to go in and out.</p> <p>22 Q. Okay. And did you receive a W-2 from that</p> <p>23 employer or employers?</p> <p>24 A. I am sure I did, yes.</p> <p>25 Q. And you had taxes taken out?</p>	Page 45	<p>1 account of physical disability?</p> <p>2 A. It's accounting of age; 62.</p> <p>3 Q. Have you ever filed a Social Security</p> <p>4 disability claim?</p> <p>5 A. No.</p> <p>6 Q. Were you ever injured at work?</p> <p>7 A. I had hurt my back a couple of times at</p> <p>8 work. And I went to the clinic and they gave me</p> <p>9 some medication and they gave me some, this</p> <p>10 stimulant on my back and stuff.</p> <p>11 Q. Did you ever miss any time because of</p> <p>12 injuries at work?</p> <p>13 A. A few days.</p> <p>14 Q. Nothing significant?</p> <p>15 A. Nothing that would keep me from working.</p> <p>16 Q. Okay. Did you ever fly planes?</p> <p>17 A. I was a pilot since 1956.</p> <p>18 Q. And were you a commercial pilot?</p> <p>19 A. Private pilot.</p> <p>20 Q. Okay. And what kind of planes did you fly?</p> <p>21 A. Well, I flew several.</p> <p>22 Q. Okay.</p> <p>23 A. Well, you want to go through the whole list</p> <p>24 of what I had?</p> <p>25 Q. Sure.</p>

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Page 46	<p>1 A. Well, I flew a J-3 Cub after I rebuilt it.</p> <p>2 I flew a Luscombe, I had two of them. I had two</p> <p>3 Taylorcrafts. I had a Bellanca 3-tail. And then I</p> <p>4 had another Taylorcraft. And then I had rented a</p> <p>5 Bellanca from some flight schools. And then I -- a</p> <p>6 Citabria, Aeronca Citabria. And I've flown, I had a</p> <p>7 150, a 150 Cessna. And I had a, my last aircraft</p> <p>8 was a 1946 Swift, that was my last aircraft. But I</p> <p>9 have flown many other types aircraft.</p> <p>10 Q. And these are all, the ones that you listed,</p> <p>11 those are ones that you owned?</p> <p>12 A. Yes.</p> <p>13 Q. And do you still own any of those aircrafts?</p> <p>14 A. No, I had to sell my Swift since my eyes</p> <p>15 went bad. I couldn't keep up the work on it because</p> <p>16 I couldn't see the work and I couldn't -- I used to</p> <p>17 do my own inspections, because I'm a licensed</p> <p>18 mechanic and I can do that. And then I would have</p> <p>19 an AI sign off on it. And I couldn't do that</p> <p>20 because I couldn't see it.</p> <p>21 So I kept it for a couple of years. And I</p> <p>22 figure well, there's no sense in leaving it sit</p> <p>23 there and just deteriorate, so I sold it.</p> <p>24 Q. And since you lost sight in your eyes, have</p> <p>25 you at all tried to fly?</p>	Page 48	<p>1 But one day the wife, I said, "I want to go to</p> <p>2 Menard's," and she was busy and I still could see</p> <p>3 very good out of my left eye. And I drove to</p> <p>4 Menard's that day and drove back. And that was the</p> <p>5 first time I'd even driven a car since I lost the</p> <p>6 eyesight in my right eye. And I said well, this</p> <p>7 worked okay, I can live with this.</p> <p>8 But when my left eye went down then, that</p> <p>9 was the end of my driving or everything.</p> <p>10 Q. What is Menard's?</p> <p>11 A. It's a big box store that sells building</p> <p>12 material.</p> <p>13 Q. Okay. And how far is that from your house?</p> <p>14 A. About 5 miles.</p> <p>15 Q. The planes that you listed for me, how many</p> <p>16 passengers do they seat?</p> <p>17 A. Some of 'em are two. Some of 'em are four.</p> <p>18 Q. Let's talk about your medical background a</p> <p>19 little bit.</p> <p>20 A. Okay.</p> <p>21 Q. Have you ever smoked?</p> <p>22 A. Yes.</p> <p>23 Q. When did you smoke?</p> <p>24 A. When did I smoke? I started smoking when I</p> <p>25 was a senior in high school. And I smoked up until,</p>
Page 47	<p>1 A. Well, I can fly, I just can't see where I'm</p> <p>2 going.</p> <p>3 Q. Okay.</p> <p>4 A. I still -- it's like riding a bike, you</p> <p>5 know, you don't forget to learn how to ride a bike</p> <p>6 or drive a car. I can still fly. I just cannot</p> <p>7 pass the, you know, the medical check, you know, the</p> <p>8 eyes.</p> <p>9 Q. So when is the last time you actually flew a</p> <p>10 plane?</p> <p>11 A. Let's see. Probably -- probably up until I</p> <p>12 lost my eyesight. I would say I was flying every</p> <p>13 week up until I lost my eyesight.</p> <p>14 Q. So how long before you lost your eyesight</p> <p>15 would you say is the last time you flew?</p> <p>16 A. I'd say maybe a week at the most.</p> <p>17 Q. Now as I understand from your records, you</p> <p>18 started having problems in one eye?</p> <p>19 A. Yes.</p> <p>20 Q. And then about four weeks later you started</p> <p>21 having problems in your second eye?</p> <p>22 A. Yes.</p> <p>23 Q. In between that period of time, were you</p> <p>24 able to fly at all?</p> <p>25 A. No, I didn't. In fact, I didn't even drive.</p>	Page 49	<p>1 probably until I was about 35.</p> <p>2 Q. And why did you quit?</p> <p>3 A. My kids got on me, to be honest and truthful</p> <p>4 with you. My kids were in sports and stuff, and my</p> <p>5 kids got on me and so I just decided well, it would</p> <p>6 be a good idea to quit smoking.</p> <p>7 Q. From the time that you were smoking from</p> <p>8 high school until about 35, how much did you smoke?</p> <p>9 A. I'd say maybe a pack a day.</p> <p>10 Q. And have you smoked at all since you quit?</p> <p>11 A. No.</p> <p>12 Q. Not a single cigarette?</p> <p>13 A. Not once.</p> <p>14 Q. Do you drink alcohol?</p> <p>15 A. I have a beer once in a while. And I have a</p> <p>16 glass of wine once in a while with dinner.</p> <p>17 Q. You say once in a while. How many drinks in</p> <p>18 a week would you say you have?</p> <p>19 A. Well, let's see. Wine, maybe once every</p> <p>20 three, four weeks a glass of wine with dinner or</p> <p>21 something if we have something.</p> <p>22 And a beer, I may have a beer, you know, a</p> <p>23 couple of beers every, every week. Sometimes I go</p> <p>24 two, three weeks without having a glass of beer or a</p> <p>25 bottle of beer or a can of beer, whatever.</p>

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Richard Martin 8/5/2008
In Re: Viagra Products Liability Litigation

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<p>1 Q. Have your drinking habits changed at all 2 over the last 20, 25 years at all? 3 A. No. Because I worked for the airlines and 4 you don't drink when you work. So you don't drink 5 before you work, 'cause you'd get fired for one 6 thing. No, I didn't drink very much when I was 7 working. 8 Q. Have you ever -- have you had a greater 9 alcohol intake? Do you recall reporting to your 10 doctor that you were drinking two beers a day? 11 A. Every day? 12 Q. Mm-hmm. 13 A. No, never. 14 Q. Never told that to your doctor? 15 A. No, I don't know how, I don't know how -- he 16 said that I drank two beers every day? 17 Q. Well, do you recall reporting to your doctor 18 that you were drinking two beers a day? 19 A. No. 20 Q. Okay. Did any doctor ever tell you to stop 21 drinking? 22 A. No. 23 Q. Have you ever used any illegal, illicit 24 drugs? 25 A. No, never.</p>	<p>1 of probably 15 mechanics working for me. And I had 2 seven hangars to -- plus the ramp. And the hangars 3 are 300 feet apart or 300 feet wide. So if you go 4 from 1 to 7, it's a long walk. So and -- so it was 5 constantly walking through the hangars and handing 6 out work and seeing that the jobs were getting done. 7 And then you go down to the other hangar and up and 8 down the stairs. 9 It's not like walkways when you board an 10 aircraft up at the gates. It's you walk up the 11 stairs and down the stairs. And that's all really 12 good exercise. So I, I had a lot of exercise at 13 work. 14 Q. And so other than the walking and the stair 15 climbing at work, did you have any other type of 16 exercise plan? 17 A. I walk, I walk at, at home all the time. 18 Q. How far, how often -- well, how far do you 19 walk? 20 A. I usually walk about 2 1/2 miles when I go. 21 Q. And this is for exercise? 22 A. For exercise. 23 Q. And how often do you do that? 24 A. Well, in the wintertimes it's not quite as 25 often. Unless we go south, then it's every day.</p>
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<p>1 Q. And have you ever been convicted of a crime? 2 A. No. 3 Q. Ever been arrested? 4 A. No. 5 Q. How tall are you, sir? 6 A. Pardon? 7 Q. How tall are you? 8 A. I think I'm about 5'7" or 5'8". 9 Q. And what's your current weight? 10 A. My last weight when I was at the doctor's 11 office I think it was 186 or 187. 12 Q. Has your weight been pretty constant? 13 A. Pretty much so, yeah. 14 Q. Has any doctor ever expressed a concern to 15 you about your weight? 16 A. No. 17 Q. Have you ever tried to lose weight? 18 A. Not very hard. 19 Q. Do you exercise? 20 A. I used to do a lot of walking. And yeah, I 21 did, when I was at work I walked constantly, never 22 sat down all day long. 23 Q. Was that for exercise or just part of the 24 job? 25 A. No, that was part of the job. I had a crew</p>	<p>1 And in the summertime, unless it's very hot, I go, 2 go for a walk, you know, few times a week. 3 Q. When's the last time you went for a walk? 4 A. Let's see, I think it was about three days 5 ago. 6 Q. And how long did you go for? 7 A. It's a little over a half an hour I walk. I 8 walk, like I say, about 2 1/2 miles. 9 Q. In half an hour? 10 A. I walk fast. 11 Q. Has anyone ever told you you have high blood 12 pressure? 13 A. Oh, yeah, the doctor. 14 Q. When was the first time you heard that you 15 had high blood pressure? 16 A. God, it must be about ten years ago with 17 Dr. Ferrara somewhere, somewhere in that area I 18 started taking medication. It wasn't high enough 19 where I could not get my, my pilot's license. They 20 always said it was good enough. But he wanted to 21 get it a little lower. 22 Q. Mm-hmm. Well, do you recall Dr. Ferrara 23 starting you on medication over 20 years ago, in 24 1987? 25 A. I don't remember when I started, I could</p>

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Page 54	<p>1 not, I don't remember when I started.</p> <p>2 Q. Well, if Dr. Ferrara's records indicate he</p> <p>3 started prescribing medication for your blood</p> <p>4 pressure in April of 1987, would you have any basis</p> <p>5 to disagree with that?</p> <p>6 A. Do I have what?</p> <p>7 Q. A basis to disagree with that?</p> <p>8 A. No, I guess I don't. Because I don't really</p> <p>9 remember when I started.</p> <p>10 Q. Do you know how long before you started</p> <p>11 medication your doctors had started noticing</p> <p>12 elevated blood pressures?</p> <p>13 A. No, no, I don't, because the other -- no, I</p> <p>14 don't. Before Dr. Ferrara? No. And since 1956,</p> <p>15 every two years I had to get a medical for my</p> <p>16 pilot's license. And any -- and any of the doctors</p> <p>17 that I got the medical, they never said anything</p> <p>18 about my blood pressure, it was always okay. And I</p> <p>19 had to have that every two years.</p> <p>20 Q. When's the last time you had a medical exam</p> <p>21 for your pilot license?</p> <p>22 A. I think it was about a year before I -- I</p> <p>23 don't have my pilot license with me, I don't think I</p> <p>24 do, I could tell you exact date. I'd say maybe</p> <p>25 about a year before. I don't know if I got my pilot</p>	Page 56	<p>1 Wold-Chamberlain Field at Minneapolis Airport. They</p> <p>2 had a clinic there that the doctors there would give</p> <p>3 you a flight physical. But from what I understand,</p> <p>4 they've -- they closed that facility down. And then</p> <p>5 I went to Dr. Hoberg.</p> <p>6 Q. Now, Dr. Ferrara has been your primary care</p> <p>7 physician for a long time?</p> <p>8 A. For a long time, right.</p> <p>9 Q. The earliest records we have from him are</p> <p>10 from January of 1985. Did you go see him before</p> <p>11 then?</p> <p>12 A. No.</p> <p>13 Q. Before Dr. Ferrara, who was your primary</p> <p>14 doctor?</p> <p>15 A. I never had no primary doctor before that.</p> <p>16 I --</p> <p>17 Q. Did you go to a doctor on a regular basis</p> <p>18 before Dr. Ferrara?</p> <p>19 A. No. No.</p> <p>20 Q. When you started seeing Dr. Ferrara, do you</p> <p>21 recall him expressing a concern with your elevated</p> <p>22 blood pressure?</p> <p>23 A. Did he?</p> <p>24 Q. Did he tell you he was concerned about your</p> <p>25 blood pressure?</p>
Page 55	<p>1 license with me. It would say on there. And that</p> <p>2 would be the last time.</p> <p>3 I may have taken it out of here because I</p> <p>4 can't use it anymore.</p> <p>5 I'm sorry. If I had my wife here she could</p> <p>6 dig around in here, but. I would say about a year</p> <p>7 before I lost my eyesight.</p> <p>8 Q. So that'd be 2001?</p> <p>9 A. I would say so, yes.</p> <p>10 Q. And who was the doctor doing the medical</p> <p>11 exams for your pilot license?</p> <p>12 A. The last, I think it was about the last</p> <p>13 eight or ten years it was Dr. Hoberg.</p> <p>14 Q. Hoberg, H-O-L?</p> <p>15 A. I think that's how he spelled it, Holberg</p> <p>16 [sic]. And he did flight physicals. Only certain</p> <p>17 doctors can do flight physicals. And I went to him</p> <p>18 simply because he was the cheapest and I had to get</p> <p>19 -- the money was coming out of my pocket and the</p> <p>20 insurance wouldn't pay for that.</p> <p>21 Q. Okay.</p> <p>22 A. And he's in River Falls, Wisconsin.</p> <p>23 Q. And prior to Dr. Hoberg, where did you go?</p> <p>24 A. Where did I go? I went to, I'm trying to</p> <p>25 think of -- it was the medical clinic at</p>	Page 57	<p>1 A. No.</p> <p>2 Q. Did he advise you to lose weight?</p> <p>3 A. Not that I can remember.</p> <p>4 Q. Did he advise you to cut down on your salt?</p> <p>5 A. On my smoking?</p> <p>6 Q. Your salt.</p> <p>7 A. My salt? He may have, I don't remember.</p> <p>8 Q. Now, Dr. Ferrara treated you with different</p> <p>9 -- lots of different medications over the years for</p> <p>10 your blood pressure, correct?</p> <p>11 A. No, actually mostly I think, I think it was</p> <p>12 just Tenex up until a short time in '02 that he had</p> <p>13 changed it. And that I thought was working fine.</p> <p>14 Q. Do you recall taking a medication called</p> <p>15 hydrochlorothiazide?</p> <p>16 A. If I did take it, it was probably for a very</p> <p>17 short time. I couldn't -- I don't remember, no.</p> <p>18 Q. It's a class of drug known as a diuretic or</p> <p>19 a water pill. Do you recall taking that?</p> <p>20 A. It could very well have been. But I never</p> <p>21 took it for any length of time. And I think</p> <p>22 probably it was just a sample.</p> <p>23 Q. Did you have any side effects from the</p> <p>24 Tenex?</p> <p>25 A. Tenex, I had absolutely none. And why he</p>

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Page 58	<p>1 changed it, I have no idea.</p> <p>2 Q. Do you recall telling Dr. Ferrara that you</p> <p>3 were getting tired on your Tenex?</p> <p>4 A. Tired? No.</p> <p>5 Q. Do you recall trying a medication called</p> <p>6 Vasotec?</p> <p>7 A. No. I think it's probably something that he</p> <p>8 may have gave me a sample of or something.</p> <p>9 Q. But you don't recall trying it?</p> <p>10 A. No.</p> <p>11 Q. Do you recall taking a medication called</p> <p>12 Zestril?</p> <p>13 A. Zestrol [sic]?</p> <p>14 Q. Zestril.</p> <p>15 A. Zestril. Sounds familiar but I, I don't</p> <p>16 remember taking it.</p> <p>17 Q. Were there times that you stopped taking</p> <p>18 your blood pressure medications over the years?</p> <p>19 A. No.</p> <p>20 Q. Did you ever discuss with Dr. Ferrara the</p> <p>21 possibility of stopping blood pressure medications?</p> <p>22 A. No.</p> <p>23 Q. Do you recall at one point blood pressure</p> <p>24 medications having a problem with -- causing a</p> <p>25 problem with impotence?</p>	Page 60	<p>1 2002, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And tell me about the patch.</p> <p>4 A. The patch? It was just a little round patch</p> <p>5 that you put on (indicating).</p> <p>6 Q. Where did you wear it?</p> <p>7 A. Where did I wear 'em? One time here, and</p> <p>8 one time here (indicating). I only wore 'em, two or</p> <p>9 three. I think I got a month's supply. I think I</p> <p>10 still got a couple left.</p> <p>11 Q. And when you're saying "here or here" you're</p> <p>12 talking about on your chest, right?</p> <p>13 A. On the chest, yes. And that would be for</p> <p>14 seven days for each patch.</p> <p>15 Q. Okay. So you would put one patch on and</p> <p>16 leave it there for seven days?</p> <p>17 A. For seven days, yes.</p> <p>18 Q. Okay. And then you would take that one off</p> <p>19 and put a new one on?</p> <p>20 A. Put another one on, yes.</p> <p>21 Q. Did you have any side effects from the</p> <p>22 patch?</p> <p>23 A. I don't think so. Didn't seem to.</p> <p>24 Q. Do you recall telling your doctor that it</p> <p>25 was cause -- this new medication for hypertension</p>
Page 59	<p>1 A. Causing?</p> <p>2 Q. A problem with impotence?</p> <p>3 A. No.</p> <p>4 Q. You don't recall discussing with Dr. Ferrara</p> <p>5 the possibility of stopping blood pressure</p> <p>6 medications, if that would improve your impotence?</p> <p>7 A. If I did I don't recall.</p> <p>8 Q. Okay. Do you remember trying a medication</p> <p>9 called Zestoretic?</p> <p>10 A. No.</p> <p>11 Q. Do you remember taking a medication called</p> <p>12 Diovan?</p> <p>13 A. Sounds familiar, but I don't remember taking</p> <p>14 it for any length of time.</p> <p>15 Q. Okay. You don't recall trying that in March</p> <p>16 of 2002?</p> <p>17 A. It must have been something that he was</p> <p>18 trying. And it must have been a sample or something</p> <p>19 that I, but I just don't recall.</p> <p>20 Q. Okay. Do you remember trying something</p> <p>21 called a Catapres patch?</p> <p>22 A. That I remember.</p> <p>23 Q. Okay.</p> <p>24 A. Yes.</p> <p>25 Q. And you started trying that on April of</p>	Page 61	<p>1 was causing you some dizziness?</p> <p>2 A. That may have been from one of the other</p> <p>3 ones that I was taking that I don't remember.</p> <p>4 Q. Did there come a time that you forgot to</p> <p>5 change your patch or?</p> <p>6 A. No.</p> <p>7 Q. Did you ever wear two at the same time?</p> <p>8 A. No.</p> <p>9 Q. Do you know what day of the week you would</p> <p>10 change your patches?</p> <p>11 A. Well, yeah, I'd change it, you know, after</p> <p>12 the seven days.</p> <p>13 Q. And do you know what weekday -- what day of</p> <p>14 the week that was?</p> <p>15 A. What day of the week it was, no, I don't.</p> <p>16 Q. Did you start using it the first day he gave</p> <p>17 it to you?</p> <p>18 A. Yes.</p> <p>19 Q. So if we look at that first day, and then</p> <p>20 every seven days you changed it?</p> <p>21 A. Well, I had to go to the drugstore and get</p> <p>22 it and then I put it on that day, yes.</p> <p>23 Q. Okay. And then so if we looked, every seven</p> <p>24 days is when you would have changed it?</p> <p>25 A. Is when I changed it, yes.</p>

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Page 62	<p>1 Q. Do you know what time of day you changed</p> <p>2 your patch?</p> <p>3 A. Oh, I couldn't tell you that.</p> <p>4 Q. And you don't recall whether it gave you any</p> <p>5 side effects?</p> <p>6 A. No.</p> <p>7 Q. And then you started taking a medication</p> <p>8 called Acupril?</p> <p>9 A. Acupril, yes.</p> <p>10 Q. And that was right after the Catapres?</p> <p>11 A. Yes.</p> <p>12 Q. Did you have any side effects from the</p> <p>13 Acupril?</p> <p>14 A. No.</p> <p>15 Q. How long did you take the Acupril for?</p> <p>16 A. I think it was only for a month or two, and</p> <p>17 then I started taking lisinopril. I think</p> <p>18 lisinopril is a generic.</p> <p>19 Q. Do you know why your doctor switched you to</p> <p>20 lisinopril?</p> <p>21 A. Well, because I can get it from the VA.</p> <p>22 Q. In your mind, does that work better than</p> <p>23 any --</p> <p>24 A. It's the same thing as Acupril.</p> <p>25 Q. Okay. Does the lisinopril work better than</p>	Page 64	<p>1 anywhere from the mid 120s to the mid 130s.</p> <p>2 Q. And has Dr. Ferrara given you a specific</p> <p>3 goal as to where he would like your blood pressure</p> <p>4 to be?</p> <p>5 A. Never said a word about how low he wanted it</p> <p>6 below.</p> <p>7 Q. Has any of your doctors ever told you where</p> <p>8 your blood pressure should be?</p> <p>9 A. There was one doctor that was concerned that</p> <p>10 my low number was getting too low.</p> <p>11 Q. Okay. And how low was it at that time?</p> <p>12 A. I don't remember what he had put down.</p> <p>13 Q. Which doctor was it?</p> <p>14 A. This was Dr. Abid.</p> <p>15 Q. And what kind of doctor is Dr. Abid?</p> <p>16 A. He is a diabetic doctor.</p> <p>17 Q. And when did you see him?</p> <p>18 A. I saw him about seven, seven months ago. I</p> <p>19 seen him, I seen him before -- it was after I was</p> <p>20 having all my problems with my eyes and stuff,</p> <p>21 Dr. Ferrara said, "I think I'd like you to see a</p> <p>22 diabetic doctor." And so I saw him. I don't take</p> <p>23 any medication. I see him once every six or seven</p> <p>24 months. And all he does is check me and my blood</p> <p>25 and stuff to see if -- and he said, "I thought that,</p>
Page 63	<p>1 any of the other medications you'd been taking?</p> <p>2 A. Actually, I think my Tenex did the best.</p> <p>3 And he changed that. He was -- he changed some</p> <p>4 stuff around there.</p> <p>5 Q. Do you know why he stopped taking the</p> <p>6 Tenex -- stopped giving you the Tenex?</p> <p>7 A. He said he wanted to try to get my blood</p> <p>8 pressure lower. And I thought it was low enough.</p> <p>9 Q. Do you know what the levels were?</p> <p>10 A. Well, I think they were in the 130s,</p> <p>11 sometime 135, probably. I never had the records of</p> <p>12 what he, of what he put down.</p> <p>13 Q. Do you have a blood pressure monitor at</p> <p>14 home?</p> <p>15 A. I do now, yes. I just got one here about</p> <p>16 six months ago.</p> <p>17 Q. And how often do you check your blood</p> <p>18 pressure at home?</p> <p>19 A. Every once in a while. Not very often.</p> <p>20 Every time I check it, it's fine.</p> <p>21 Q. When you say it's fine, what levels is it</p> <p>22 at?</p> <p>23 A. Well, sometimes it runs between 65 and 70.</p> <p>24 Q. The bottom number?</p> <p>25 A. The bottom number. And the top number is</p>	Page 65	<p>1 you know, the blood pressure was a little low on one</p> <p>2 side." He just mentioned it.</p> <p>3 Q. Did he make any changes to your medication</p> <p>4 as a result of that comment?</p> <p>5 A. No.</p> <p>6 Q. Did you ever discuss that with Dr. Ferrara?</p> <p>7 A. I mentioned that it got -- but he seemed to</p> <p>8 think that that was fine.</p> <p>9 Q. Okay. So you said that this -- you saw him</p> <p>10 last about seven months ago. When was the first</p> <p>11 time you saw Dr. Abid?</p> <p>12 A. Let's see, how many times have I seen him.</p> <p>13 I think I've seen him for about three -- it's been a</p> <p>14 couple of years. The exact date I could not tell</p> <p>15 you.</p> <p>16 Q. It was sometime after your loss -- your</p> <p>17 vision loss?</p> <p>18 A. After I lost my eyes, yeah.</p> <p>19 Q. About how long after that?</p> <p>20 A. I would say probably about, probably about</p> <p>21 four years after, four -- four and a half years,</p> <p>22 something like that. It was quite some time after I</p> <p>23 lost my eyes.</p> <p>24 Q. And Dr. Ferrara referred you to him?</p> <p>25 A. Pardon?</p>

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Page 66	<p>1 Q. Dr. Ferrara referred you to him?</p> <p>2 A. Yes.</p> <p>3 Q. And did you say that because -- he wanted</p> <p>4 you to see him because of the problems you'd had</p> <p>5 with your eyes?</p> <p>6 A. No, I don't think it was for the cause of my</p> <p>7 eyes.</p> <p>8 Q. Oh, okay. At some point in time, at some</p> <p>9 point did Dr. Abid give you Cardura to treat your</p> <p>10 blood pressure?</p> <p>11 A. I've never taken anything for -- Dr. Abid?</p> <p>12 Q. Yes.</p> <p>13 A. No, he's never given me any medication.</p> <p>14 Q. For your blood pressure?</p> <p>15 A. No.</p> <p>16 Q. You don't recall ever taking Cardura?</p> <p>17 A. No.</p> <p>18 Q. Did Dr. Ferrara ever give you Cardura?</p> <p>19 A. I can't tell you, it doesn't sound familiar</p> <p>20 to me.</p> <p>21 Q. But currently you're taking the lisinopril?</p> <p>22 A. I'm taking lisinopril, yeah.</p> <p>23 Q. Over the years, has Dr. Ferrara ever</p> <p>24 discussed with you the risks associated with high</p> <p>25 blood pressure?</p>	Page 68	<p>1 A. Not that I can recall.</p> <p>2 MS. LESKIN: Take a quick break. We've</p> <p>3 been going almost two hours, hour and a half.</p> <p>4 (Discussion held off the record.)</p> <p>5 (Break from 10:53 a.m. to 11:08 a.m.)</p> <p>6 MS. LESKIN: Back on the record.</p> <p>7 BY MS. LESKIN:</p> <p>8 Q. Mr. Martin, before the break earlier we were</p> <p>9 talking about your various grandchildren and there</p> <p>10 was one granddaughter whose name you couldn't</p> <p>11 remember. I understand you now remember her name?</p> <p>12 A. Angela.</p> <p>13 Q. Okay. Thank you. I'm sure everyone will</p> <p>14 feel better now.</p> <p>15 A. Oh, yeah. I'm glad my son ain't here.</p> <p>16 Q. We won't tell him.</p> <p>17 Before the break, immediately before the</p> <p>18 break we were talking about your blood pressure.</p> <p>19 A. Yes.</p> <p>20 Q. And the medications you've been taking.</p> <p>21 A. Yeah.</p> <p>22 Q. Have you ever experienced any side effects</p> <p>23 or complications from your increases -- your high</p> <p>24 blood pressure?</p> <p>25 A. Any complications? You mean as far as</p>
Page 67	<p>1 A. Well, he's worried about people having</p> <p>2 strokes, you know.</p> <p>3 Q. Any other risks that he's talked about?</p> <p>4 A. No, I think he's just worried about me</p> <p>5 having a stroke.</p> <p>6 Q. Have you ever done any research into high</p> <p>7 blood pressure?</p> <p>8 A. Have I? No.</p> <p>9 Q. Has anyone on your behalf done research into</p> <p>10 high blood pressure?</p> <p>11 A. You mean on the Internet or something like</p> <p>12 that or reading about it?</p> <p>13 Q. The Internet or reading books, correct.</p> <p>14 A. Not that I know.</p> <p>15 Q. Are you aware that high blood pressure also</p> <p>16 carries risks for heart attack?</p> <p>17 A. I suppose.</p> <p>18 Q. Are you aware that high blood pressure</p> <p>19 carries risks for diseases like ischemic optic</p> <p>20 neuropathy?</p> <p>21 A. Could be.</p> <p>22 Q. Did anyone ever tell you that?</p> <p>23 A. Nope, not about my eyes, not about my heart.</p> <p>24 Q. Has anyone ever given you any books or</p> <p>25 pamphlets to read about high blood pressure?</p>	Page 69	<p>1 dizziness or something like that or?</p> <p>2 Q. Anything that the doctors say is due to the</p> <p>3 fact that you have high blood pressure.</p> <p>4 A. There was one medication that kind of gave</p> <p>5 me an upset stomach, but I don't recall the name.</p> <p>6 Q. Okay. Do you recall having a transient</p> <p>7 ischemic attack at any time?</p> <p>8 A. No.</p> <p>9 Q. Do you recall in 1993 having numbness in the</p> <p>10 arms and legs?</p> <p>11 A. No. That time -- I remember going to the</p> <p>12 doctor, and I don't know what he had written down,</p> <p>13 but he had made me, he had me take some tests and</p> <p>14 stuff.</p> <p>15 But the day that I had seen him, I had a</p> <p>16 very busy day, I had not eaten lunch, and I probably</p> <p>17 wasn't feeling good when I got home. But anything</p> <p>18 else, you know, I don't remember. And I told him</p> <p>19 that. But apparently he mistook it for something</p> <p>20 else.</p> <p>21 Q. Do you remember going to the doctor on an</p> <p>22 emergency basis in May of '93?</p> <p>23 A. I think that was, I think that was the time.</p> <p>24 Q. Okay. And you had noticed numbness in your</p> <p>25 right arm twice for a half-hour each time?</p>

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<p>1 A. No, I don't remember that, I don't remember 2 saying that, but. 3 Q. Do you remember the day that you saw him you 4 were experiencing numbness in your right leg? 5 A. No. Another doctor asked me about that, 6 too, and I just -- I know I went in there and he 7 said, "Well, I want you to take some of these 8 tests." And all of the tests were negative. 9 Q. Was one of the tests they did a CAT scan? 10 A. I think so. 11 Q. And do you remember they did a test to look 12 at your carotid arteries? 13 A. I think so. 14 Q. And do you recall him telling you that your 15 right carotid artery was 60 to 70 percent blocked at 16 that point in time? 17 A. That could be. 18 Q. And they put you in the hospital? 19 A. I think I took the test in the hospital, 20 yes. 21 Q. They put you on an IV heparin? 22 A. I don't remember, I couldn't tell you that, 23 I don't remember. They may have given me an IV or 24 something for that. 25 Q. Okay. Do you know which hospital you were</p>	<p>1 And I think he figured that I was having problems at 2 that, you know, at that time. Because my wife was 3 very sick at that time. 4 And that's when we started going to 5 Dr. Ferrara. We didn't have any regular doctor 6 before that. But she had seen another doctor I 7 think about a month earlier that she was having some 8 pains in her stomach. And this was a Dr. Sandkamp 9 in South St. Paul. And he said it was just nothing 10 but female problems, and that's -- he just kind of 11 blew her off that she had female problems. 12 But we were fishing in Lake Michigan, my 13 wife and myself and my son, and she got very ill, 14 and stomach stuff. So we quit fishing and come 15 back. And that doctor was not available at that 16 weekend, so my son said, "Well, go to my doctor, 17 Dr. Ferrara." And that was just -- so that's how we 18 started going to Dr. Ferrara. And Dr. Ferrara put 19 my wife in the hospital right away. 20 Q. And that was in the mid-1980s? 21 A. That was when the first time we've ever seen 22 Dr. Ferrara, yeah. And they operated on her two 23 days later I think it was, for ovarian cancer. And 24 she fought that for ten years. 25 Q. And that was a stressful time for all of</p>
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<p>1 in? 2 A. It was one that is closed now. It's -- oh, 3 I'm trying to remember which one that was. I think 4 it was the one in South St. Paul, but I don't know 5 what that is. Just a South St. Paul hospital, if 6 I'm not mistaken. There is a couple of them that we 7 used to go to that are closed now. 8 Q. Mm-hmm. 9 A. Divine Redeemer, does that? I think that, I 10 think that was the hospital in South St. Paul. 11 Q. Do you know what a TIA is? 12 A. I'm sorry, I couldn't, I don't know. 13 Q. Did any doctors ever tell you any risks 14 associated with the fact that you had been diagnosed 15 with a TIA or a transient ischemic attack? 16 A. Nobody ever told me I had TIA or ischemic 17 attack. 18 Q. Some time after that incident, Dr. Ferrara 19 started you on aspirin? 20 A. Aspirin? 21 Q. Yes. 22 A. That could be. The reason I think I went 23 there is he put me, he had me checked is because 24 my -- we had started going to him I think it was in 25 '82 or '83 and he was very concerned about my wife.</p>	<p>1 you, I'm sure. 2 A. It was. 3 Q. And is that why Dr. Ferrara was concerned 4 you think with your health as well? 5 A. I think that's why he was concerned. It was 6 really stressful. 7 Q. Had anything in particular happened at the 8 time that you went to the doctor with what 9 ultimately he wrote in his records was a TIA? 10 A. Did anything happen? No, huh-uh. 11 Q. Nothing you can recall? 12 A. No. 13 Q. And a few months after that, Dr. Ferrara 14 started you on aspirin therapy? 15 A. Could be, yes. 16 Q. And you told me earlier you take the aspirin 17 to keep your blood thin? 18 A. Yeah. 19 Q. And what dose aspirin do you take? 20 A. I just take a regular aspirin. 21 Q. A full strength or child strength? 22 A. Regular full strength. 23 Q. Like a Bayer aspirin? 24 A. No, just any aspirin you buy at the 25 drugstore. Sometimes I break 'em in half and</p>

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Page 74	<p>1 sometimes I don't. Most of the times I don't.</p> <p>2 Q. Okay. Do you recall in late 1995 going to</p> <p>3 the hospital with chest discomfort?</p> <p>4 A. Could be. I don't remember.</p> <p>5 Q. Do you recall being told that you had</p> <p>6 premature atrial [sic] contractions?</p> <p>7 A. I do not remember.</p> <p>8 Q. Do you remember being in St. Joseph's</p> <p>9 Hospital?</p> <p>10 A. I've been in there a couple of times, yeah.</p> <p>11 Q. Do you recall being in St. Joseph's Hospital</p> <p>12 because of a problem with your heart?</p> <p>13 A. I think I do, I think I had.</p> <p>14 Q. And did anyone explain to you what premature</p> <p>15 arterial contractions were?</p> <p>16 A. No, no.</p> <p>17 Q. Did they tell you what any of the risks</p> <p>18 associated with premature arterial contractions</p> <p>19 were?</p> <p>20 A. No.</p> <p>21 Q. Have you ever followed up with any doctors</p> <p>22 about that?</p> <p>23 A. The only one that I followed was Dr. Ferrara</p> <p>24 would be the only ones.</p> <p>25 Q. Do you recall in July of '97 seeing</p>	Page 76	<p>1 amounts were, what the levels were?</p> <p>2 A. I'm sure he said what it was, but I don't</p> <p>3 remember what it was. But I do remember saying that</p> <p>4 it wasn't that high, but he still wanted me on</p> <p>5 Zocor.</p> <p>6 Q. Prior to starting you on the Zocor, had you</p> <p>7 ever talked about your cholesterol levels with</p> <p>8 Dr. Ferrara?</p> <p>9 A. No. Nope, never.</p> <p>10 Q. And are you still taking the Zocor?</p> <p>11 A. Actually I quit a couple of months ago.</p> <p>12 Q. A couple months ago?</p> <p>13 A. Yeah.</p> <p>14 Q. Why did you quit Zocor?</p> <p>15 A. Because I think my cholesterol was way down</p> <p>16 and I wanted -- I'm tired of taking a bunch of</p> <p>17 medication. And I'll go back and have it rechecked</p> <p>18 and see what it is. And if it's still down --</p> <p>19 'cause it was never that high.</p> <p>20 Q. Do you know what the levels were at the time</p> <p>21 you stopped taking the medication?</p> <p>22 A. No.</p> <p>23 Q. Did you have a conversation with Dr. Ferrara</p> <p>24 about stopping taking Zocor?</p> <p>25 A. No.</p>
Page 75	<p>1 Dr. Ferrara because of an episode of weakness?</p> <p>2 A. I don't recall, I really don't.</p> <p>3 Q. Do you recall experiencing an episode of</p> <p>4 weakness?</p> <p>5 A. I don't.</p> <p>6 Q. To your knowledge have you had any other</p> <p>7 episodes like the TI -- the one that Dr. Ferrara</p> <p>8 wrote in his notes was a TIA?</p> <p>9 A. No.</p> <p>10 Q. Have you ever been told you have high</p> <p>11 cholesterol?</p> <p>12 A. Well, after my eyes went down, Dr. Ferrara</p> <p>13 told me that I should start taking cholesterol</p> <p>14 medicine. But that was after. Never before.</p> <p>15 Q. Do you know what your cholesterol levels</p> <p>16 were at that point in time?</p> <p>17 A. They were not very high.</p> <p>18 Q. Do you know what they were?</p> <p>19 A. No, I don't know what they were. But the</p> <p>20 next time I go to Dr. Ferrara I'm going to say I</p> <p>21 want a printout of what I have, because I'm just</p> <p>22 guessing now on what it would be. It wasn't that</p> <p>23 high.</p> <p>24 Q. You don't recall having any discussion with</p> <p>25 Dr. Ferrara one way or the other as to what the</p>	Page 77	<p>1 Q. Does he know you stopped taking the Zocor?</p> <p>2 A. No.</p> <p>3 Q. When's the last time you saw Dr. Ferrara?</p> <p>4 A. It's been -- I think it's been about three</p> <p>5 months ago. I'm not -- yeah, I think it's like two</p> <p>6 and a half, three months. I'm not quite sure.</p> <p>7 Q. And you stopped taking the Zocor after that</p> <p>8 last visit?</p> <p>9 A. Yes.</p> <p>10 Q. Were you having any side effects from the</p> <p>11 Zocor?</p> <p>12 A. Yeah, I had -- at night sometimes I'd have a</p> <p>13 burning stomach. He said take it at night. And I'd</p> <p>14 have to get up and get a drink of water, you know,</p> <p>15 to cool it down.</p> <p>16 Q. Did you ever discuss with Dr. Ferrara the</p> <p>17 side effects you were having, that you were having</p> <p>18 the stomach problems?</p> <p>19 A. No, I never have. But I will when I go back</p> <p>20 to him the next time.</p> <p>21 Q. Did you do any research about Zocor to see</p> <p>22 if that was a potential side effect of the</p> <p>23 medication?</p> <p>24 A. No.</p> <p>25 Q. Did Dr. Ferrara give you any information</p>

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Page 78	<p>1 about potential side effects with Zocor?</p> <p>2 A. I'm sure he had -- I'm sure he did.</p> <p>3 Q. What pharmacy do you get the Zocor from or</p> <p>4 did you get the Zocor from?</p> <p>5 A. I get from the VA.</p> <p>6 Q. Do they give you any kind of printout when</p> <p>7 they give you the prescription?</p> <p>8 A. Oh, yes. Oh, yeah.</p> <p>9 Q. And did that printout say anything about</p> <p>10 heartburn or stomach problems?</p> <p>11 A. It could have. I couldn't tell you, 'cause</p> <p>12 I just don't read it. I can't read it anyway.</p> <p>13 Q. Did you ever ask your wife to read it to</p> <p>14 you?</p> <p>15 A. I think she did at one time when I first</p> <p>16 started. But I don't remember what it said.</p> <p>17 Q. Do you keep those printouts?</p> <p>18 A. Do I keep 'em?</p> <p>19 Q. Yes.</p> <p>20 A. I get 'em every, every time I order.</p> <p>21 Q. But do you keep them?</p> <p>22 A. Only until I get the other batch.</p> <p>23 Q. So you always have the latest one that</p> <p>24 you've gotten?</p> <p>25 A. Yes, yeah.</p>	Page 80	<p>1 A. I'd usually have a printout with it, yes.</p> <p>2 Q. Okay. And you don't keep those?</p> <p>3 A. It's been how many years since I've taken</p> <p>4 Tenex, it's been six years.</p> <p>5 Q. So you don't have --</p> <p>6 A. I haven't kept any of them, no.</p> <p>7 Q. When did you get rid of those?</p> <p>8 A. Oh, I don't remember.</p> <p>9 Q. When you used to pick up the Tenex from the</p> <p>10 pharmacy, did you read the printouts that came?</p> <p>11 A. I usually did, yes.</p> <p>12 Q. Did you ever ask the pharmacist any</p> <p>13 questions about the Tenex?</p> <p>14 A. No, because the Tenex was not bothering me</p> <p>15 any, you know. I had no side effects from Tenex.</p> <p>16 Q. How about when you started the Catapres, we</p> <p>17 talked about the patch, where did you get that from?</p> <p>18 A. I got that from the drugstore, too.</p> <p>19 Q. Okay. Did a printout come with that one?</p> <p>20 A. Yes.</p> <p>21 Q. And did you read that printout?</p> <p>22 A. Mm-hmm.</p> <p>23 Q. Yes?</p> <p>24 MS. HAUER: You have to say yes out</p> <p>25 loud.</p>
Page 79	<p>1 Q. How about with your blood pressure</p> <p>2 medications, do you get those from the VA also?</p> <p>3 A. Yes.</p> <p>4 Q. And do you get the same printouts?</p> <p>5 A. Yes.</p> <p>6 Q. And do you do the same thing, you keep until</p> <p>7 the next one comes in?</p> <p>8 A. Yup, yup.</p> <p>9 Q. So when you stop taking various medications,</p> <p>10 would you keep the printout from those medications?</p> <p>11 Or would you just throw 'em away when you stop</p> <p>12 taking the blood pressure medication?</p> <p>13 A. Do you mean do I keep all of the old ones?</p> <p>14 Q. Yes.</p> <p>15 A. No.</p> <p>16 Q. So for example, you told me earlier that you</p> <p>17 used to take Tenex, is that right?</p> <p>18 A. Tenex.</p> <p>19 Q. Tenex? Do you still have any printouts of</p> <p>20 information about Tenex?</p> <p>21 A. No.</p> <p>22 Q. We talked about --</p> <p>23 A. The Tenex I used to get from the drugstore.</p> <p>24 Q. Okay. And when you would get it from the</p> <p>25 drugstore, did you also have a printout?</p>	Page 81	<p>1 A. Well, no, no, I'm sorry, no, I did not.</p> <p>2 Q. Okay.</p> <p>3 A. That's when my, my right eye went bad. I</p> <p>4 could still read with my left eye.</p> <p>5 Q. Okay. Well, the Catapres, according to the</p> <p>6 records, was prescribed to you on April 24th, 2002,</p> <p>7 which would have been just before your right eye</p> <p>8 went bad, correct?</p> <p>9 A. That's right, yes.</p> <p>10 Q. So when you picked up your first</p> <p>11 prescription for Catapres, do you recall reading the</p> <p>12 printout?</p> <p>13 A. I did read the printout on that, yeah.</p> <p>14 Q. And did you keep the printout?</p> <p>15 A. You know, I think I still got it in my</p> <p>16 drawer. Because I still got the box and I still</p> <p>17 got, I think I still have a couple of patches left.</p> <p>18 Q. Do you have any other medications still in</p> <p>19 your drawer that you don't take -- even though</p> <p>20 you're not taking the medication?</p> <p>21 A. No.</p> <p>22 MS. LESKIN: We'd ask for a copy of the</p> <p>23 printout of the Catapres information that he has.</p> <p>24 MS. HAUER: Okay. At the end, if you</p> <p>25 just want to send us a letter with the various</p>

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Page 82	<p>1 requests you made to make sure we get them all.</p> <p>2 MS. LESKIN: Absolutely we will.</p> <p>3 MS. HAUER: That'd be great.</p> <p>4 BY MS. LESKIN:</p> <p>5 Q. We also talked about that you had taken</p> <p>6 Diovan at some point?</p> <p>7 A. It sounds familiar, but I don't, I don't</p> <p>8 think I've took it for maybe a few weeks or a month.</p> <p>9 Q. Do you have any records at home where you</p> <p>10 keep track of what medications you've taken at</p> <p>11 various points in time?</p> <p>12 A. No, I do not.</p> <p>13 Q. Do you keep any journal or anything like</p> <p>14 that?</p> <p>15 A. No.</p> <p>16 Q. Do you keep a file in your house of various</p> <p>17 medical-related documents?</p> <p>18 A. I think the wife does, yes.</p> <p>19 Q. Okay, so your wife would have any of those</p> <p>20 kind of documents?</p> <p>21 A. She might have, yeah.</p> <p>22 Q. Do you know what she keeps in that file?</p> <p>23 A. She usually keeps all my medical records and</p> <p>24 visits, you know.</p> <p>25 Q. And how long has she kept that file?</p>	Page 84	<p>1 MS. LESKIN: I'm still talking about</p> <p>2 before he lost his vision.</p> <p>3 A. Before we lost my vision? We could have,</p> <p>4 I'm not sure if we have.</p> <p>5 Q. But do you recall seeing information about</p> <p>6 medications you had been taking the last times that</p> <p>7 you had been through that file?</p> <p>8 A. I don't recall.</p> <p>9 Q. Is this file one that is kept for both of</p> <p>10 you? Or does she -- do you know if your wife keeps</p> <p>11 a separate file?</p> <p>12 A. We keep 'em separate. We keep 'em separate.</p> <p>13 MS. LESKIN: We'd request a copy of</p> <p>14 whatever file they have on Mr. Martin's health</p> <p>15 history, any pertinent medical records.</p> <p>16 BY MS. LESKIN:</p> <p>17 Q. I asked you about conversations you had</p> <p>18 about your cholesterol with Dr. Ferrara. Have you</p> <p>19 ever discussed your cholesterol with any of your</p> <p>20 other doctors?</p> <p>21 A. No.</p> <p>22 Q. Have you ever seen a cardiologist?</p> <p>23 A. I had a stress test, if that would be. I've</p> <p>24 had two stress tests done since my eyes have gone</p> <p>25 down just to eliminate the problems of my eyes.</p>
Page 83	<p>1 A. Quite some time.</p> <p>2 Q. Since you were married?</p> <p>3 A. Pretty much so, yeah.</p> <p>4 Q. So we can ask her a little bit more about</p> <p>5 that tomorrow?</p> <p>6 A. You could.</p> <p>7 Q. Or later in the week?</p> <p>8 A. You could, yeah.</p> <p>9 Q. Do you ever have an opportunity to review</p> <p>10 those files?</p> <p>11 A. I don't review anything anymore. My wife</p> <p>12 has to pull it out and read it to me.</p> <p>13 Q. Okay. Well, let's talk about prior to the</p> <p>14 time of your vision problems. Did you have the</p> <p>15 opportunity to review any of the documents in that</p> <p>16 file?</p> <p>17 A. Oh, yeah. Yeah.</p> <p>18 Q. So you have access to that?</p> <p>19 A. Pardon?</p> <p>20 Q. So you have access to that?</p> <p>21 A. Oh, yes, oh, yeah.</p> <p>22 Q. And is there information about medications</p> <p>23 you've taken in that file?</p> <p>24 MS. HAUER: Objection, form. When he</p> <p>25 could --</p>	Page 85	<p>1 And the first stress test I had was after</p> <p>2 both my eyes, I don't remember the exact date,</p> <p>3 probably a few months after my eyes went down. And</p> <p>4 I had a stress test there and he said, "Why are you</p> <p>5 taking the stress test?" I says, "To see if my</p> <p>6 heart could be the problem with my eyes going down."</p> <p>7 He says, "You have no problem with your heart. And</p> <p>8 your eyes," said, "Your heart did not cause your</p> <p>9 eyes to" --</p> <p>10 Q. And who was that doctor?</p> <p>11 A. I don't remember the name. I think I still</p> <p>12 got, I may have it at home.</p> <p>13 Q. Is that Dr. Hoberg?</p> <p>14 A. No, Dr. Hoberg was the one, the third-class</p> <p>15 medical for my, for my --</p> <p>16 Q. Oh, okay.</p> <p>17 A. For my, my license.</p> <p>18 Q. Dr. Halbe? Is that the doctor, Halbe,</p> <p>19 H-A-L-B-E?</p> <p>20 A. That could be. I only talked to him once.</p> <p>21 It's been several years since then. It could have</p> <p>22 been him.</p> <p>23 Q. Okay. When you underwent that stress test,</p> <p>24 did anyone tell you that you had had a hypertensive</p> <p>25 response to exercise?</p>

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Page 86	<p>1 A. Would you repeat that again, I'm not.</p> <p>2 Q. Sure. When you took the stress test that</p> <p>3 you just told me about.</p> <p>4 A. Mm-hmm.</p> <p>5 Q. Did anyone tell you that you had a</p> <p>6 hypertensive response to exercise?</p> <p>7 A. No.</p> <p>8 Q. When did you have your second stress test?</p> <p>9 A. About, about four months ago I think it was.</p> <p>10 Q. Actually do you recall having a stress test</p> <p>11 in 1993?</p> <p>12 A. '93?</p> <p>13 Q. Yes.</p> <p>14 A. Golly, you know, I don't remember that.</p> <p>15 Q. And that would have been from Dr. Hoberg.</p> <p>16 Do you recall him doing a stress test in 1993 as</p> <p>17 part of your flight medical exam?</p> <p>18 A. Geez, you know, I don't remember.</p> <p>19 Q. Did you ever talk about your cholesterol</p> <p>20 with any other doctor?</p> <p>21 A. No.</p> <p>22 Q. Now, we talked a little bit about your</p> <p>23 diabetes, right?</p> <p>24 A. Well --</p> <p>25 Q. Talked a little bit about it.</p>	Page 88	<p>1 A. I do.</p> <p>2 Q. Do you do that every day?</p> <p>3 A. No.</p> <p>4 Q. How often do you check your blood sugars?</p> <p>5 A. Oh, couple of times a week. I usually check</p> <p>6 it in the morning and then I check it later on in</p> <p>7 the day to make sure that it's all fairly close to</p> <p>8 normal.</p> <p>9 Q. Do you keep a log of your blood sugars?</p> <p>10 A. I do, I have, but I haven't done any lately.</p> <p>11 I usually do that probably about two or three weeks</p> <p>12 before I go and see Dr. Abid.</p> <p>13 Q. So you only check your blood sugar when</p> <p>14 you're coming up on a visit with Dr. Abid?</p> <p>15 A. When I come up to a visit on a doctor, yeah.</p> <p>16 MS. LESKIN: We'd request a copy of</p> <p>17 whatever blood sugar journals he's been maintaining.</p> <p>18 BY MS. LESKIN:</p> <p>19 Q. When did you start maintaining a journal of</p> <p>20 your blood sugars?</p> <p>21 A. Right after I seen Dr. Abid. But I haven't</p> <p>22 kept any of those records. I haven't kept any of</p> <p>23 those.</p> <p>24 Q. Okay. Well, whatever you have currently</p> <p>25 we'd ask.</p>
Page 87	<p>1 A. We've talked.</p> <p>2 Q. And you told me that Dr. Ferrara sent you to</p> <p>3 Dr. Abid?</p> <p>4 A. Yes.</p> <p>5 Q. And when did you first see Dr. Abid?</p> <p>6 A. It's been, I don't know, been a couple years</p> <p>7 ago. After, it was long after my eyes went down.</p> <p>8 And I think what Dr. Ferrara just wanted to make</p> <p>9 sure about my -- about my -- excuse me for a second</p> <p>10 here. About the number -- I'm not sure exactly why</p> <p>11 he sent me there.</p> <p>12 Q. Okay.</p> <p>13 A. He just said to, you know, he'd like me to</p> <p>14 see this diabetic doctor. And I've seen him, and</p> <p>15 he's taken blood and stuff and checked all my blood</p> <p>16 and everything and it's all been good. And I got</p> <p>17 one of these little things that check your blood for</p> <p>18 how high it is and how low it goes and I showed him</p> <p>19 the numbers for a month and stuff and he says, "See</p> <p>20 you in six months." And that was -- I've done that</p> <p>21 I think three times now. He says, "Come back in six</p> <p>22 months, everything is fine."</p> <p>23 Q. So he gave you a blood sugar monitor?</p> <p>24 A. Yes.</p> <p>25 Q. And do you check your blood sugar?</p>	Page 89	<p>1 A. Right now currently I don't have anything.</p> <p>2 Q. Okay. Prior to seeing Dr. Abid, did anyone</p> <p>3 ever tell you that you had borderline diabetes?</p> <p>4 A. Nope.</p> <p>5 Q. Dr. Ferrara never mentioned that to you?</p> <p>6 A. Nope.</p> <p>7 Q. Did anyone ever tell you you had elevated</p> <p>8 blood sugars prior to seeing Dr. Abid?</p> <p>9 A. No. The only one I've seen would be</p> <p>10 Dr. Ferrara. He may have thought -- you know, he</p> <p>11 may have taken blood and it may have shown something</p> <p>12 that, but he never said anything until he sent me to</p> <p>13 Dr. Abid.</p> <p>14 But this has all happened after, four, five</p> <p>15 years after my eyes. I don't get the exercise that</p> <p>16 I used to get.</p> <p>17 Q. Do you recall Dr. Ferrara ever expressing</p> <p>18 concern that you might have glucose intolerance?</p> <p>19 A. No.</p> <p>20 Q. Did he ever --</p> <p>21 A. No.</p> <p>22 Q. Did he ever express that concern to you as</p> <p>23 early as September of '96?</p> <p>24 A. No.</p> <p>25 Q. Do you recall a discussion with -- do you</p>

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Page 90	<p>1 recall a discussion with Dr. Ferrara in May of 2001 2 regarding elevated blood sugars? 3 A. No. 4 Q. Do you recall telling him that you had been 5 quite fatigued? 6 A. 2001? No, no, I don't really. 7 Q. Have you taken any medication to control 8 your blood sugars? 9 A. No. 10 Q. Ever? 11 A. No. 12 Q. Has Dr. Abid recommended any change with 13 diet? 14 A. No, he just said, "Keep doing what you're 15 doing." 16 Q. Well, the first time you saw him did he 17 recommend any changes? 18 A. No. 19 Q. Do you recall being diagnosed with fatty 20 liver disease? 21 A. I am diagnosed with fatty liver disease? 22 First time I ever heard that. 23 Q. Do you recall anytime having an abdominal 24 ultrasound? 25 A. Yes.</p>	Page 92	<p>1 A. A tumor removed off my bladder? 2 Q. Mm-hmm. 3 A. No. 4 Q. So you think that was April? 5 A. I know it was April. 6 Q. And how do you know that it was April? 7 A. Because we were going to go on a trip two 8 days later. This was, this was from Dr. Ferrara or 9 McEllistrem or what? 10 Q. Well, who did the surgery? 11 A. Dr. McEllistrem. 12 Q. Okay. Well, according to Dr. McEllistrem's 13 records, the surgery was done at St. Joseph's, 14 correct? 15 A. Yes. 16 Q. On August 30th, 2006. Are you telling me 17 that -- did you have a surgery in August of 2006? 18 A. I had, I had a tumor removed from my 19 bladder, on the inside of my bladder. And that was 20 in April. Because two days later, we went on a 21 month's trip in May. And I seen him here just last 22 May and he took another look at it and says that my 23 bladder was clear. So it was in May. 24 Q. So do you believe that Dr. McEllistrem's 25 records are wrong in that regard then?</p>
Page 91	<p>1 Q. And what was the purpose of the abdominal 2 ultrasound? 3 A. I had a little pain on my right side. 4 Q. And what diagnosis were you given at that 5 time? 6 A. I wasn't given any. 7 Q. Which doctor ordered that? 8 A. Dr. Ferrara. 9 Q. Did Dr. Ferrara ever tell you the results of 10 that at all? 11 A. No, not that I can recall. He just said it 12 was all right. 13 Q. Did he ever explain to you that the 14 ultrasound revealed fatty liver disease? 15 A. No. 16 Q. Did you ever hear of fatty liver disease? 17 A. No, never heard of it. 18 Q. You recently had a bladder tumor removed? 19 A. Yes. 20 Q. And that was about two years ago now? 21 A. That was, let's see -- yeah, it was about, 22 about the end of April about a year and a half ago 23 that I had it removed. 24 Q. The records we have indicate the surgery was 25 August, end of August of 2006.</p>	Page 93	<p>1 A. As far as the date goes. The tumor was 2 removed. 3 Q. How did they diagnose the tumor? 4 A. Actually, what he was doing is he was taking 5 biopsies of my prostate. And when, when he was, 6 when he was in, when he was doing the biopsies of my 7 prostate, I think he took about a dozen, a dozen 8 little snips off of it to check for cancer. And he 9 thought he had seen something on the outside of my 10 bladder that looked a little different. And he 11 wanted to see -- so I went into his office and he 12 wanted to see if there was something. 13 So I went in his office and he took a -- he 14 went in and took a picture to see if there was 15 something inside. And he said yes, there was 16 something in there, but -- and he'd like to have it 17 removed and it looked like it was a tumor. 18 Q. And were they able to successfully remove 19 the tumor? 20 A. Pardon? 21 Q. Did they successfully remove the entire 22 tumor? 23 A. Yes, it was removed. And I just had it 24 checked here, like I say, about a month ago. He 25 went in and looked again and -- maybe two months</p>

24 (Pages 90 to 93)

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Page 94	<p>1 ago. Went in and looked again and said everything</p> <p>2 is clear.</p> <p>3 Q. And did they do a pathological exam on the</p> <p>4 tumor?</p> <p>5 A. From what I understand and he said it was,</p> <p>6 he thought it was benign. That's what he told me</p> <p>7 anyway. I've never taken any medication or anything</p> <p>8 for it.</p> <p>9 Q. Now, at some point, as we talked about</p> <p>10 earlier, you began having some problems with</p> <p>11 impotence, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And when did you first notice problems in</p> <p>14 that regard?</p> <p>15 A. After my second marriage.</p> <p>16 Q. Were you already married at that point?</p> <p>17 A. Yes. We never had intercourse before we</p> <p>18 were married.</p> <p>19 Q. The first note we have from Dr. Ferrara is</p> <p>20 dated -- regarding impotence, is dated May 20th,</p> <p>21 1996, where you reported to Dr. Ferrara that you</p> <p>22 were having problems with impotence?</p> <p>23 A. I was having problems, yup.</p> <p>24 Q. Okay. And it came up apparently with a new</p> <p>25 girlfriend?</p>	Page 96	<p>1 A. Probably with my first wife before she died.</p> <p>2 Q. Okay. And how long before she died had you</p> <p>3 engaged in sexual activity with your wife?</p> <p>4 A. Quite some time. She was very sick.</p> <p>5 Q. You told me earlier that she had been</p> <p>6 diagnosed ten years before her death.</p> <p>7 A. Yes.</p> <p>8 Q. During that ten-year period were you,</p> <p>9 between her diagnosis and her death, were you able</p> <p>10 to engage in sexual activity at any point in that</p> <p>11 time?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So how long prior to her death,</p> <p>14 whether it be months or years, was the last time you</p> <p>15 had engaged in sexual activity?</p> <p>16 A. I would say it'd probably be a year or so</p> <p>17 before she died.</p> <p>18 Q. Okay. And those last times that you were</p> <p>19 able to have sex with your wife --</p> <p>20 A. Yes.</p> <p>21 Q. -- did you have any problems whatsoever?</p> <p>22 A. No.</p> <p>23 Q. Okay, you were able to get an erection?</p> <p>24 A. Yes.</p> <p>25 Q. And you were able to maintain your erection?</p>
Page 95	<p>1 A. My wife.</p> <p>2 Q. Okay. You told me earlier you were married</p> <p>3 on June 19th?</p> <p>4 A. June 19th.</p> <p>5 Q. So this was prior to the wedding?</p> <p>6 A. I never had, I never had sex with my wife</p> <p>7 right now before we were married.</p> <p>8 Q. Okay. So what led to your reporting to</p> <p>9 Dr. Ferrara on May 20th of 1996 that you were having</p> <p>10 problems with impotence?</p> <p>11 A. I have no idea.</p> <p>12 Q. Did you have a conversation with Dr. Ferrara</p> <p>13 about impotence prior to your wedding?</p> <p>14 A. Nope.</p> <p>15 Q. Prior to your noticing problems with</p> <p>16 impotence, when was the last time you had engaged in</p> <p>17 sexual activity?</p> <p>18 A. You mean now? Or?</p> <p>19 Q. Back then.</p> <p>20 A. Back then?</p> <p>21 Q. Whether it's May of '96 or June of '96,</p> <p>22 whenever you believe you first discussed the</p> <p>23 issue with Dr. -- first noticed the problem, prior</p> <p>24 to then, when was the last time you had engaged in</p> <p>25 sexual activity?</p>	Page 97	<p>1 A. Yes.</p> <p>2 Q. And you were able to ejaculate?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 A. My wife was very sick for the last year.</p> <p>6 Very sick. We didn't have no intercourse. And I</p> <p>7 didn't have no intercourse with my present wife</p> <p>8 until after we were married in July -- I mean, I'm</p> <p>9 sorry, June. It was -- we were married June 19th.</p> <p>10 And that would -- I may have got the dates wrong.</p> <p>11 I'm sorry, I may have got the dates wrong.</p> <p>12 Q. No, you told me June 19th.</p> <p>13 A. Yeah.</p> <p>14 Q. But my point is Dr. Ferrara has a note in</p> <p>15 his records dated May 20th, 1996.</p> <p>16 A. I don't know why. I don't even, you know, I</p> <p>17 don't even know if I seen him there in May. There</p> <p>18 are some discrepancies we found out with</p> <p>19 Dr. Ferrara's records.</p> <p>20 Q. Prior to your marriage, your current -- your</p> <p>21 second marriage, had you engaged -- and after the</p> <p>22 death of your first wife, had you engaged in sexual</p> <p>23 activity with anyone?</p> <p>24 A. (Shook head negatively.)</p> <p>25 MS. HAUSER: She needs a verbal answer.</p>

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Page 98	<p>1 Q. You have to answer verbally.</p> <p>2 A. No. I'm sorry, no.</p> <p>3 Q. Had you attempted to engage in sexual</p> <p>4 activity with anyone?</p> <p>5 A. No. I didn't have no girlfriends.</p> <p>6 Q. Okay. At any time prior to between the</p> <p>7 death of your wife and your marriage to your second</p> <p>8 wife, did you attempt masturbation at any time?</p> <p>9 A. Have I?</p> <p>10 Q. In that time period.</p> <p>11 A. Do that again, I gotta get these dates</p> <p>12 right.</p> <p>13 Q. Sure. In between the death of your first</p> <p>14 wife and the marriage to your second wife, did you</p> <p>15 attempt masturbation at any point during that time?</p> <p>16 A. Could have. But I'm not sure.</p> <p>17 Q. Do you recall any problems with masturbation</p> <p>18 during that period of time?</p> <p>19 A. No.</p> <p>20 Q. Do you recall any difficulty in that period</p> <p>21 of time in getting an erection?</p> <p>22 A. I really didn't need one. I really didn't</p> <p>23 need one.</p> <p>24 Q. So there were no problems that you were</p> <p>25 aware of during that point in time?</p>	Page 100	<p>1 Q. So in that month period, what percentage of</p> <p>2 time would you estimate you were having difficulty</p> <p>3 getting an erection?</p> <p>4 A. Oh, maybe half.</p> <p>5 Q. And of the half the time that you were able</p> <p>6 to get an erection, were you able to maintain that</p> <p>7 erection?</p> <p>8 A. For a very short time.</p> <p>9 Q. And then would you ejaculate or would you</p> <p>10 lose the erection?</p> <p>11 A. Sometimes I would ejaculate.</p> <p>12 Q. Okay, and sometimes you would not be able to</p> <p>13 maintain the erection?</p> <p>14 A. Sometimes, yes.</p> <p>15 Q. Okay. Did it gradually get worse over time</p> <p>16 or did it maintain that state?</p> <p>17 A. It did not get any better. It pretty much</p> <p>18 stayed the same.</p> <p>19 Q. Okay. And how long was it after you first</p> <p>20 noticed a problem that you went to talk to</p> <p>21 Dr. Ferrara about it?</p> <p>22 A. Soon after we were married.</p> <p>23 Q. Would you say how long?</p> <p>24 A. Oh, man, I would think it was one of my</p> <p>25 doctor visits. I don't, I don't really recall how</p>
Page 99	<p>1 A. No.</p> <p>2 Q. Okay. When was the first time you noticed a</p> <p>3 problem either getting or maintaining an erection?</p> <p>4 A. After we were, after we were married.</p> <p>5 Q. Okay, and how long had you been married?</p> <p>6 A. Well, we got married in '96, June 19th, '96.</p> <p>7 And how long after that --</p> <p>8 Q. Did you first notice a problem.</p> <p>9 A. -- that I first noticed it? Geez, I don't</p> <p>10 remember. It was soon after, but exactly how long,</p> <p>11 I don't remember. I was having a hard time.</p> <p>12 Q. And what were you having a hard time?</p> <p>13 A. Having a hard time getting the erection.</p> <p>14 Q. Getting one?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Were you able to eventually get an</p> <p>17 erection? Or were you not at all able?</p> <p>18 A. Sometimes yes, sometimes no.</p> <p>19 Q. Okay. And how often would you attempt to</p> <p>20 engage in sexual activity?</p> <p>21 A. I would say, you know, maybe once or twice a</p> <p>22 week.</p> <p>23 Q. So in a month, maybe five, six times you</p> <p>24 would try?</p> <p>25 A. That would be pretty close, yeah.</p>	Page 101	<p>1 soon after. But I think it was when he sent me to</p> <p>2 Dr. McEllistrem. That would be the first time I've</p> <p>3 seen Dr. McEllistrem, and that's the reason why I</p> <p>4 went to see him the first time.</p> <p>5 Q. So when you went to see -- now, did you</p> <p>6 request to see Dr. McEllistrem or did Dr. Ferrara</p> <p>7 recommend him to you?</p> <p>8 A. Dr. Ferrara recommended him to me.</p> <p>9 Q. Okay. And the referral note that I see from</p> <p>10 Dr. Ferrara is dated sometime July 9th, 1996.</p> <p>11 A. Okay.</p> <p>12 Q. Is that about the first time that you saw --</p> <p>13 A. Probably. Probably pretty close.</p> <p>14 Q. And how many times had you seen Dr. Ferrara</p> <p>15 about your difficulties before going to see</p> <p>16 Dr. McEllistrem?</p> <p>17 A. How many times did I see Dr. Ferrara?</p> <p>18 Q. Mm-hmm, about your impotence.</p> <p>19 A. Well, I think it was just that once and then</p> <p>20 he sent me to Dr. McEllistrem. He said, "I got a</p> <p>21 doctor that could probably help you."</p> <p>22 Q. Okay. And so you went to see</p> <p>23 Dr. McEllistrem?</p> <p>24 A. Yes.</p> <p>25 Q. And what did Dr. McEllistrem do?</p>

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1 A. Well, he gave me a regular checkup and
2 stuff. And then he had given me some medication
3 that was supposed to, that was supposed to help me.
4 I think it was amednine [phonetic] or something.
5 Q. Yohimbine?
6 A. Yohimbine, yeah. And that didn't, and that
7 didn't seem to help any, any bit. And I tried that
8 for quite some time. And that didn't seem to help
9 any.
10 And then he put me on the, he gave me this
11 what they call Caverject, I don't know if you're
12 familiar with that or not.
13 Q. That's an injection?
14 A. Yes. And that didn't work very well either.
15 I tried that for a while and it took all of the,
16 everything away from -- I mean, you try to give
17 yourself an injection and then have intercourse,
18 it's -- kind of loses everything, so. And besides,
19 it didn't work very well, so. So I stopped using
20 that, too.
21 Q. Let's go back to before you started to see
22 Dr. McEllistrem. At some point did Dr. Ferrara --
23 did you and Dr. Ferrara discuss stopping your blood
24 pressure medications to see if that improved?
25 A. Stopping it?

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1 Q. Yes.
2 A. No, not that I can recall.
3 Q. You don't recall stopping blood pressure
4 medications for a couple weeks to see if that
5 helped?
6 A. I can't recall. I don't think I have ever
7 stopped it.
8 Q. Okay, and you don't recall reporting to
9 Dr. Ferrara that stopping the blood pressure
10 medication did not improve your erections?
11 A. I don't recall. I really don't. It could
12 have been. But I don't recall stopping it. May
13 have.
14 Q. And you don't -- do you recall that your
15 blood pressure -- in addition to not helping your
16 erections, your blood pressure went up to 180 over
17 86?
18 A. Whatever he has down there. It could have
19 been.
20 Q. Did you try taking a combination of
21 medications called Trazodone and yohimbine together?
22 A. Both of 'em, yes.
23 Q. Did that improve at all?
24 A. No.
25 Q. How many times do you think you tried the

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1 yohimbine?
2 A. Several times. Several times. Exactly how
3 many, I'm not sure.
4 Q. Over a course of a month? A couple months?
5 A. It may have been a couple of months, I'm
6 sure.
7 Q. Did you notice any improvement from the
8 yohimbine?
9 A. Very little.
10 Q. When you say very little, were you able to
11 get an erection more often? Were you able to get a
12 better erection?
13 A. Sometimes yes and sometimes no.
14 Q. Did your difficulties in getting an erection
15 have an effect on your relationship with your wife?
16 A. No.
17 Q. How did you react to it?
18 A. Not in the least. I think I probably
19 reacted more than she did.
20 Q. And when you say you reacted, what happened?
21 A. Well, I -- well, it makes you feel like
22 you're, you know, you're not living up to what you
23 should, I guess.
24 Q. Affects your manhood?
25 A. Yes.

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1 Q. Did you notice any difficulties doing other
2 activities at the time?
3 A. Oh, no, no. I've always been very active.
4 Q. You said Dr. McEllistrem also gave you a
5 product called Caverject?
6 A. Yes.
7 Q. And that involved injections, right?
8 A. Yes.
9 Q. Who administered the injection?
10 A. I did.
11 Q. Would your wife help you at all?
12 A. No.
13 Q. And how often did you try the Caverject?
14 A. Oh, quite often -- quite often.
15 Q. When you say quite often, what does that
16 mean?
17 A. Maybe once a week.
18 Q. For how long?
19 A. How long was the injection you mean or?
20 Q. No, how long was -- over what period of time
21 did you try using it?
22 A. Oh, oh, oh. It was several months, several
23 months it was. And I could see that it wasn't much
24 better than anything else.
25 Q. Now, you said, you gave me two complaints

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Page 106	<p>1 about the Caverject. You said one, that the</p> <p>2 injection -- that having to give yourself an</p> <p>3 injection took away from the mood?</p> <p>4 A. Yes.</p> <p>5 Q. And also that it didn't work very well?</p> <p>6 A. That's right.</p> <p>7 Q. Okay, so let's talk about the second one</p> <p>8 first. When you say it didn't work very well, were</p> <p>9 you ever able to get an erection after using</p> <p>10 Caverject?</p> <p>11 A. Yes, kind of a semi. I would say maybe,</p> <p>12 maybe half hard or however you want to, however you</p> <p>13 would like to call it.</p> <p>14 Q. Was it hard enough for penetration?</p> <p>15 A. Yes.</p> <p>16 Q. Were you able to maintain that erection?</p> <p>17 A. For a little while, yes.</p> <p>18 Q. And were you able to ejaculate?</p> <p>19 A. Sometimes yes, yeah.</p> <p>20 Q. But not always?</p> <p>21 A. Most of the times, yeah, I would say yes.</p> <p>22 Q. There's some indication in your record that</p> <p>23 it produced some kind of angulation to the penis?</p> <p>24 A. Yes.</p> <p>25 Q. Was that something that you had noticed</p>	Page 108	<p>1 curvature?</p> <p>2 A. How about like a banana.</p> <p>3 Q. Okay.</p> <p>4 A. Up, not down. It used to be very straight.</p> <p>5 Now it's (gesturing). I'm sorry, ladies.</p> <p>6 Q. We knew what we were getting into.</p> <p>7 (To reporter) I don't know if you did.</p> <p>8 Q. Has it worsened over time since you've</p> <p>9 stopped using the Caverject?</p> <p>10 A. No, when I stopped using it, it stayed the</p> <p>11 same, it has not, it has not changed.</p> <p>12 Q. Is that noticeable when you do not have an</p> <p>13 erection?</p> <p>14 A. No. No.</p> <p>15 Q. Have you ever discussed that with</p> <p>16 Dr. McEllistrem?</p> <p>17 A. Oh, I told him about it, but, and I stopped</p> <p>18 using it.</p> <p>19 Q. Did he ever tell you why that happened?</p> <p>20 A. No, he did not.</p> <p>21 Q. Okay. Did he ever tell you whether there</p> <p>22 was any way to treat that?</p> <p>23 A. No.</p> <p>24 Q. Has the curvature affected your ability to</p> <p>25 engage in sexual intercourse?</p>
Page 107	<p>1 before you ever used Caverject?</p> <p>2 A. No.</p> <p>3 Q. Did anyone ever tell you that you had</p> <p>4 Peyronie's disease? Have you ever heard that</p> <p>5 before?</p> <p>6 A. Never heard of that before.</p> <p>7 Q. No one ever discussed Peyronie's disease</p> <p>8 with you?</p> <p>9 A. Caroni's?</p> <p>10 Q. Peyronie's with a P.</p> <p>11 A. Never.</p> <p>12 Q. And so no doctor ever told you you had</p> <p>13 Peyronie's disease?</p> <p>14 A. No. What is Caroni's [sic] disease?</p> <p>15 Q. Peyronie's disease is an angulation of the</p> <p>16 penis.</p> <p>17 A. You're kidding. No. Sorry.</p> <p>18 Q. Okay.</p> <p>19 A. It used to be straight and now it's not.</p> <p>20 Q. Okay. And is that only with the Caverject?</p> <p>21 A. Yes. It only started with the Caverject.</p> <p>22 Q. And since you've stopped using Caverject, do</p> <p>23 you continue to have a curvature?</p> <p>24 A. Yes.</p> <p>25 Q. Are you able to quantify the degree of the</p>	Page 109	<p>1 A. No, it hasn't.</p> <p>2 Q. You also told me that using the injection</p> <p>3 decreases the spontaneity.</p> <p>4 A. Yeah.</p> <p>5 Q. Can you elaborate what you mean by that?</p> <p>6 A. Well, for one thing, when you try to give</p> <p>7 yourself an injection in a penis, that thing goes</p> <p>8 into hiding for one thing. And if you don't hit the</p> <p>9 right spot, it doesn't do any good. And if you do,</p> <p>10 I mean you sit there -- first you gotta talk to your</p> <p>11 wife and say how would you like to have sex or</p> <p>12 something like that before you even monkey with that</p> <p>13 thing, you know. And that kinda takes away from it.</p> <p>14 Q. So it decreases the spontaneity?</p> <p>15 A. Yes. And then if you don't do -- have</p> <p>16 intercourse within a certain amount of time, it goes</p> <p>17 down and it doesn't come back up again.</p> <p>18 Q. What period of time do you have, once you</p> <p>19 give yourself the injection?</p> <p>20 A. I would say it probably took about a half an</p> <p>21 hour for it to work. And it would probably last</p> <p>22 maybe a couple hours.</p> <p>23 Q. Did you ever discuss any other -- prior to</p> <p>24 using Viagra, did you ever discuss any other</p> <p>25 treatments for erectile dysfunction with your</p>

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Page 110	<p>1 doctor?</p> <p>2 A. Well, he said there was many things that you</p> <p>3 could do. You could use some kind of a pump and</p> <p>4 some kind of a ring. And I said, "Nah, that just</p> <p>5 doesn't seem to be the thing to do."</p> <p>6 Q. Did you ever -- when you said you can use a</p> <p>7 pump, did he show you what a pump looked like?</p> <p>8 A. No.</p> <p>9 Q. Did you ever do any research to see what a</p> <p>10 pump looked like?</p> <p>11 A. No.</p> <p>12 Q. How did he explain the pump to you?</p> <p>13 A. Well, I think he just, he said that you try</p> <p>14 to put a pump on the end of it and it makes a</p> <p>15 suction or something to pull the blood into the</p> <p>16 penis and stuff. And then you cap it off or</p> <p>17 something and then do whatever you can do I guess.</p> <p>18 Q. And that wasn't something you wanted to try?</p> <p>19 A. I didn't think so. I didn't get with the --</p> <p>20 Q. Just talking about the Caverject, were the</p> <p>21 injections painful?</p> <p>22 A. Well, they certainly did not help. I mean</p> <p>23 the sticking a needle into your penis is not the</p> <p>24 best thing. Sometimes it stung quite bad and then</p> <p>25 sometimes it didn't.</p>	Page 112	<p>1 Q. Did you try any over-the-counter herbs or</p> <p>2 medications or vitamins?</p> <p>3 A. Oh, no. No, no.</p> <p>4 Q. When did you first hear about Viagra?</p> <p>5 A. From Dr. Ferrara.</p> <p>6 Q. And when was that?</p> <p>7 A. That was before it had come out.</p> <p>8 Q. How long before it came out?</p> <p>9 A. He said that there was something coming out</p> <p>10 that would probably help me when it would come out</p> <p>11 that -- or when it was approved, that he would, you</p> <p>12 know, prescribe it.</p> <p>13 Q. And how long before the drug was available</p> <p>14 in the market did you have that conversation with</p> <p>15 Dr. Ferrara?</p> <p>16 A. I think it was -- golly, I'm not sure. I'd</p> <p>17 say -- he said it was coming out shortly. Probably</p> <p>18 a couple three months. I'm not sure exactly on</p> <p>19 that.</p> <p>20 Q. Do you know how he was aware of Viagra?</p> <p>21 A. I have no idea how he was aware of it.</p> <p>22 Q. Did he give you any written information</p> <p>23 about Viagra at that point in time?</p> <p>24 A. No.</p> <p>25 Q. Did you have any conversation with</p>
Page 111	<p>1 Q. Did you have any other side effects from the</p> <p>2 medication?</p> <p>3 A. I don't recall it, no.</p> <p>4 Q. Did you ever discuss an implant, using --</p> <p>5 getting an implant?</p> <p>6 A. I think he had mentioned that at one time,</p> <p>7 Dr. Ferrara had mentioned it at one time. But I</p> <p>8 didn't think that would be a really good, a good</p> <p>9 idea.</p> <p>10 Q. Did you ever discuss medication called MUSE?</p> <p>11 A. With Dr. Ferrara?</p> <p>12 Q. Or Dr. McEllistrem?</p> <p>13 A. Dr. McEllistrem said that there was another,</p> <p>14 another product, but that I never used. It could</p> <p>15 have been MUSE.</p> <p>16 Q. What did he explain the product was?</p> <p>17 A. Well, I think he said it kind of worked like</p> <p>18 Viagra, if I'm not mistaken.</p> <p>19 Q. Okay. Prior to using Viagra, so I just want</p> <p>20 to understand, you used yohimbine and Caverject,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Did you ever try any other medications?</p> <p>24 A. I don't know of any other medications to</p> <p>25 try.</p>	Page 113	<p>1 Dr. McEllistrem about Viagra prior to it coming on</p> <p>2 the market?</p> <p>3 A. Oh, no, no. No.</p> <p>4 Q. Did Dr. McEllistrem ever tell you what was</p> <p>5 causing your problems with erectile function?</p> <p>6 A. I can't recall, no.</p> <p>7 Q. Did Dr. Ferrara ever tell you what was</p> <p>8 causing the problems?</p> <p>9 A. No.</p> <p>10 Q. Did anyone ever tell you that you had</p> <p>11 vascular inflow deficiency?</p> <p>12 A. Never heard of it. Never heard of it, no.</p> <p>13 See, I had no problem with my first wife. But then</p> <p>14 there was a lax there for quite some time.</p> <p>15 Q. Did Dr. McEllistrem ever tell you what</p> <p>16 caused erectile dysfunction generally?</p> <p>17 A. Well, he said the blood flow to the penis is</p> <p>18 slow or blocked off.</p> <p>19 Q. And did he tell you in your instance why</p> <p>20 that was occurring?</p> <p>21 A. He didn't tell me why. He told me what the</p> <p>22 cause was.</p> <p>23 Q. Did he tell you what -- whether any of your</p> <p>24 other medical conditions could contribute to</p> <p>25 erectile dysfunction?</p>

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Page 114	<p>1 A. No.</p> <p>2 Q. Did he tell you that hypertension sometimes</p> <p>3 can cause erectile dysfunction?</p> <p>4 A. He never told me that.</p> <p>5 Q. When did you first get Viagra?</p> <p>6 A. I think it was soon after it came out on the</p> <p>7 market.</p> <p>8 Q. And who gave that to you?</p> <p>9 A. Dr. Ferrara.</p> <p>10 Q. And he gave you a prescription? Or he gave</p> <p>11 you a sample the first time?</p> <p>12 A. He gave me samples and prescriptions.</p> <p>13 Q. The records from Dr. Ferrara indicate that</p> <p>14 he gave you Viagra the first time on April 17th,</p> <p>15 1998. Does that sound about right?</p> <p>16 A. Could be very true.</p> <p>17 Q. Okay. How did you know to go to Dr. Ferrara</p> <p>18 that day?</p> <p>19 A. How did I?</p> <p>20 Q. I should say why did you go to Dr. Ferrara</p> <p>21 that day?</p> <p>22 A. Golly, I don't -- I can't recall. It could</p> <p>23 have been for my blood pressure medication or, or</p> <p>24 something like that, I don't recall.</p> <p>25 Q. Did you go -- did you ask him for Viagra on</p>	Page 116	<p>1 you prior?</p> <p>2 A. I did used to scan through 'em all the time.</p> <p>3 Q. What newspapers would you get?</p> <p>4 A. I used to do the Sunday St. Paul. And</p> <p>5 usually -- I used to get the Thursday, Friday,</p> <p>6 Saturday and Sunday.</p> <p>7 Q. And those would be delivered to your house?</p> <p>8 A. Yes. It was kind of a package deal that</p> <p>9 they come out with.</p> <p>10 Q. Any other newspapers you read regularly?</p> <p>11 A. Oh, once in a while at work I'd read the</p> <p>12 Minneapolis.</p> <p>13 Q. And any magazines that you would read?</p> <p>14 A. Oh, I'd read all kinds of magazines. But</p> <p>15 which ones I don't, I don't recall.</p> <p>16 Q. Do you have any subscriptions to magazines?</p> <p>17 A. I do not. My wife has a prescription [sic]</p> <p>18 to I think it's Reader's Digest.</p> <p>19 Q. As of April 17th, 1998, so if I understand</p> <p>20 correctly, you had not read anything about Viagra</p> <p>21 prior to seeing Dr. Ferrara that day?</p> <p>22 A. I cannot remember reading anything about it</p> <p>23 or hearing about it.</p> <p>24 Q. Had you heard of the company Pfizer before</p> <p>25 April of 1998?</p>
Page 115	<p>1 that visit? Or did he recommend it to you?</p> <p>2 A. Well, he said that this is a new, a new</p> <p>3 thing, you should try this out.</p> <p>4 Q. Did you ask him for Viagra?</p> <p>5 A. Did I -- I didn't know what to ask for.</p> <p>6 Q. Had you seen anything on television about</p> <p>7 Viagra as of that time?</p> <p>8 A. No.</p> <p>9 Q. Had you read anything in the newspapers</p> <p>10 about Viagra --</p> <p>11 A. No.</p> <p>12 Q. I just want to make sure the question is on</p> <p>13 the record.</p> <p>14 A. Yeah, no.</p> <p>15 Q. Let me just get the question out. Did you</p> <p>16 read -- see any -- did you read anything in the</p> <p>17 newspapers about Viagra prior to April 17th, '98,</p> <p>18 when you saw Dr. Ferrara?</p> <p>19 A. I do not think so.</p> <p>20 Q. Did you hear anything on the radio?</p> <p>21 A. No.</p> <p>22 Q. Had you spoken to any of your friends or</p> <p>23 colleagues about Viagra?</p> <p>24 A. No.</p> <p>25 Q. Do you generally read newspapers? Or did</p>	Page 117	<p>1 A. Oh, everybody knows the medical companies,</p> <p>2 Pfizer.</p> <p>3 Q. Had you spoken to anyone from Pfizer before</p> <p>4 April 17th, 1998?</p> <p>5 A. No.</p> <p>6 Q. Do you have an Internet connection at home?</p> <p>7 A. An inter?</p> <p>8 Q. Internet connection, computer?</p> <p>9 A. Yes.</p> <p>10 Q. And did you have an Internet connection in</p> <p>11 1998?</p> <p>12 A. I do not think so. In fact, no, we did not</p> <p>13 have the computer then.</p> <p>14 Q. When did you get your computer?</p> <p>15 A. I would say after my eyes were gone.</p> <p>16 Probably '94 I would say or '95, I'm not sure. I</p> <p>17 think we've had it three or four years.</p> <p>18 Q. '94 or '95 or 2004?</p> <p>19 A. I'm sorry, 2004, 2005, I'm sorry. Yeah. It</p> <p>20 was after my eyes had gone and my -- everybody kept</p> <p>21 saying that my wife should get a computer. And she</p> <p>22 kept putting it off and putting it off.</p> <p>23 Q. Did you have access to computers at the</p> <p>24 library prior to that?</p> <p>25 A. No.</p>

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Page 118	<p>1 Q. Access to any other computers?</p> <p>2 A. I didn't, no. Maybe my wife did, I couldn't</p> <p>3 tell you.</p> <p>4 Q. So did you ever do any Internet research on</p> <p>5 your own?</p> <p>6 A. No.</p> <p>7 Q. Prior to April 17th of '98, had you had</p> <p>8 discussions with any doctor other than Dr. Ferrara</p> <p>9 about Viagra?</p> <p>10 A. Nope.</p> <p>11 Q. When you went to fill your prescription, did</p> <p>12 you speak to the pharmacist about Viagra?</p> <p>13 A. No, because it was already filled and they</p> <p>14 just handed me the paper bag with the prescription</p> <p>15 stuff on it.</p> <p>16 Q. So is it fair --</p> <p>17 (Reporter asked for repeat.)</p> <p>18 A. It had the warnings and stuff on it, you</p> <p>19 know -- or not the warnings but the effects, you</p> <p>20 know, what they get when you take a prescription.</p> <p>21 Q. The printout from the pharmacy?</p> <p>22 A. Printout, yeah.</p> <p>23 Q. So is it fair to say that prior to April</p> <p>24 17th, 1998, any information you had about Viagra you</p> <p>25 got from Dr. Ferrara?</p>	Page 120	<p>1 Q. So at the visit on April 17th, 1998, he</p> <p>2 didn't tell you anything about the drug other than</p> <p>3 here's the medication, take it half-hour or an hour</p> <p>4 before sex?</p> <p>5 A. Try some, yeah, see how it works.</p> <p>6 Q. Okay. Did you ask him any questions about</p> <p>7 Viagra?</p> <p>8 A. I didn't know what to ask him as far as, you</p> <p>9 know, how it worked or anything.</p> <p>10 Q. Did you ask him about any side effects?</p> <p>11 A. No, I did not.</p> <p>12 Q. Had you ever taken any nitrate medications</p> <p>13 as of April of '98?</p> <p>14 A. I do not think so. What's the nitrate for?</p> <p>15 Is that for your --</p> <p>16 Q. For your heart.</p> <p>17 A. For your heart? No. Or blood pressure?</p> <p>18 Or -- no, I've never taken any nitrates that I know</p> <p>19 of.</p> <p>20 Q. Okay. Did you ever discuss with Dr. Ferrara</p> <p>21 whether Viagra was appropriate for someone with the</p> <p>22 curvature of the penis that you had been</p> <p>23 experiencing?</p> <p>24 A. I don't even know if he knows it's curved.</p> <p>25 Because I did not mention it to him. I did to</p>
Page 119	<p>1 A. Yeah -- yes.</p> <p>2 Q. Okay. Tell me everything you recall about</p> <p>3 the conversation you had with Dr. Ferrara on that</p> <p>4 day, April 17th, 1998, about Viagra.</p> <p>5 A. Well, they said they had this new medication</p> <p>6 that was coming out on the market and it's supposed</p> <p>7 to work very well.</p> <p>8 Q. What else did he tell you?</p> <p>9 A. That's about it.</p> <p>10 Q. Did he tell you how to take it?</p> <p>11 A. No, he just said that he's got 50 milligrams</p> <p>12 I think. And he said, "You can just take it that</p> <p>13 way."</p> <p>14 Q. Did he tell you to take it one hour before</p> <p>15 sex?</p> <p>16 A. I think, if I'm not mistaken, it was either</p> <p>17 a half an hour or an hour before you have sex for it</p> <p>18 to work.</p> <p>19 Q. Did Dr. Ferrara give you any written</p> <p>20 information about Viagra?</p> <p>21 A. No. No.</p> <p>22 Q. Did he give you any warnings about any</p> <p>23 potential side effects from Viagra?</p> <p>24 A. Nope -- he asked me -- well, before I had</p> <p>25 taken it? No.</p>	Page 121	<p>1 Dr. McEllistrem.</p> <p>2 Q. Okay. And that was after April of '98,</p> <p>3 correct?</p> <p>4 A. Yeah, long after.</p> <p>5 Q. When you -- what pharmacy did you fill your</p> <p>6 prescription at?</p> <p>7 A. Snyder's, if I'm not mistaken.</p> <p>8 Q. And did you fill it that same day that he</p> <p>9 gave it to you?</p> <p>10 A. I think I did.</p> <p>11 Q. You said you thought he also gave you some</p> <p>12 samples?</p> <p>13 A. Yes.</p> <p>14 Q. And do you know how many samples he gave you</p> <p>15 that day?</p> <p>16 A. I think they come in a six-pack, a round</p> <p>17 six-pack.</p> <p>18 Q. Did he give you one of those packages?</p> <p>19 A. He gave me, yeah. Actually gave me a couple</p> <p>20 of 'em.</p> <p>21 Q. Okay. So you went, but you went to Snyder's</p> <p>22 the same day also?</p> <p>23 A. Yes. I think it was the same day, yes.</p> <p>24 Q. Okay. Now, you already told me that you</p> <p>25 didn't talk to the pharmacist about Viagra?</p>

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<p>1 A. No.</p> <p>2 Q. Did you get any written information from the</p> <p>3 pharmacist?</p> <p>4 A. There was written information on it that I</p> <p>5 did read.</p> <p>6 Q. Okay.</p> <p>7 A. And the packets that I got from Dr. Ferrara,</p> <p>8 I read those packets, too.</p> <p>9 Q. Do you still have any of those?</p> <p>10 A. You know, I'm not sure. I don't think so.</p> <p>11 But I could look and see if there's anything sitting</p> <p>12 there around there.</p> <p>13 Q. If you had it, where in your house would it</p> <p>14 be?</p> <p>15 A. It would either be in my files or in my</p> <p>16 dresser drawer.</p> <p>17 Q. Okay. So we'd ask that you look in those</p> <p>18 places and if you have anything --</p> <p>19 A. I can look in there and see if I have</p> <p>20 anything.</p> <p>21 Q. To the best of your recollection, did any of</p> <p>22 that written information give you information about</p> <p>23 Viagra or what information --</p> <p>24 A. It did, it did. It said when, you know,</p> <p>25 when to take it. And some side effects were</p>	<p>1 A. No.</p> <p>2 Q. Does she generally accompany you to doctor</p> <p>3 appointments?</p> <p>4 A. No. She does now, because she has to drive</p> <p>5 me and she has to sign in and stuff.</p> <p>6 Q. But at that point in time she did not?</p> <p>7 A. But at that point, no.</p> <p>8 Q. Had you had any conversation with your wife</p> <p>9 about Viagra or the new medication for erectile</p> <p>10 dysfunction prior to seeing Dr. Ferrara that day?</p> <p>11 A. Well, I told, I told her that there was some</p> <p>12 new medication coming out on the market that he said</p> <p>13 that, that I should try, you know, when it comes</p> <p>14 out.</p> <p>15 Q. Did she know you were getting the Viagra</p> <p>16 that day?</p> <p>17 A. Did she know that I was going to get it that</p> <p>18 day? I don't know if I even knew I was going to get</p> <p>19 it that day.</p> <p>20 Q. Okay. When you came home from the pharmacy,</p> <p>21 did you tell her you got Viagra?</p> <p>22 A. Yes. Yeah.</p> <p>23 Q. And did you tell her the first time you took</p> <p>24 the Viagra?</p> <p>25 A. Oh, yes. You don't take it unless you gotta</p>
Page 123	Page 125
<p>1 discoloring, a blueing discoloring. Or a headache.</p> <p>2 But I don't think it said much more about it that I</p> <p>3 read, you know, about it.</p> <p>4 Q. Did it give you instructions on how to take</p> <p>5 the medication?</p> <p>6 A. Yes.</p> <p>7 Q. What did it tell you about that?</p> <p>8 A. Well, it said just, you know, you take it a</p> <p>9 half an hour or an hour before you have intercourse.</p> <p>10 And some of, like I say, some of the side effects</p> <p>11 were blue visions or maybe a headache or a stomach</p> <p>12 or upset stomach or. But that was about it.</p> <p>13 Q. How long after you got the Viagra from the</p> <p>14 pharmacy and from Dr. Ferrara did you take the first</p> <p>15 Viagra pill?</p> <p>16 A. Well, that I don't remember. I think it</p> <p>17 was, I think it was soon after.</p> <p>18 Q. That same day?</p> <p>19 A. No, I don't think it was the same day. But</p> <p>20 it does work.</p> <p>21 Q. Okay. Did your wife know you were going to</p> <p>22 Dr. Ferrara that day?</p> <p>23 A. Golly, I don't know.</p> <p>24 Q. Did your wife accompany you to Dr. Ferrara</p> <p>25 that day?</p>	<p>1 agree something with your wife. I mean otherwise</p> <p>2 you're going to be taking a lot of that stuff for</p> <p>3 nothing.</p> <p>4 Q. What time of day do you recall, the first</p> <p>5 day you took Viagra, what time of day?</p> <p>6 A. We usually have intercourse in the early</p> <p>7 evening, you know.</p> <p>8 Q. Okay. So about what time do you think you</p> <p>9 took the Viagra?</p> <p>10 A. Oh, I would probably say probably somewhere</p> <p>11 around 7 o'clock or so, something like that, before</p> <p>12 we go to bed.</p> <p>13 Q. So between the time that you had seen</p> <p>14 Dr. Ferrara and the time you took that first Viagra</p> <p>15 pill, had you seen anything on television about</p> <p>16 Viagra?</p> <p>17 A. No.</p> <p>18 Q. Had you seen anything in the newspapers</p> <p>19 about Viagra?</p> <p>20 A. No.</p> <p>21 Q. Did you see anything in any magazines about</p> <p>22 Viagra?</p> <p>23 A. No.</p> <p>24 Q. Had you spoken to anyone other than</p> <p>25 Dr. Ferrara or the pharmacist about Viagra?</p>

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<p>1 A. I never talked to a pharmacist. She's just 2 the gal that comes up that gives you the medication. 3 But I never talked to the pharmacist. But no, I 4 never talked to anybody about it. I never talked to 5 my kids about it, I never talked to any other 6 doctors. Well, I wasn't going to any other doctors 7 except Ferrara anyway. 8 Q. Did you call Dr. McEllistrem to tell him 9 that you were going to start taking Viagra? 10 A. No. 11 Q. Did you call anyone at Pfizer about Viagra? 12 A. No. 13 Q. How many pills did you take that first time? 14 A. Just one. Just one 50. 15 Q. Okay. And you said you took it about 7 16 o'clock in the evening? 17 A. I think around 7 o'clock in the evening or 18 something. 19 Q. Had you had anything to eat? 20 A. I had -- yeah, we had supper earlier, yes. 21 Q. And did you attempt sexual relations? 22 A. We did. 23 Q. And were you able to get an erection? 24 A. It worked fine. 25 Q. And were you able to maintain that erection?</p>	<p>1 Q. Were there any times that the Viagra did not 2 work? 3 A. Well, sometimes we just didn't get together, 4 let's put it that way. 5 Q. And what do you mean by that? 6 A. I mean that sometimes I would take it and we 7 would not have intercourse. 8 Q. Because the pill wouldn't work? Or because 9 you and your wife decided not to have intercourse? 10 A. We just didn't get together that night. 11 Q. Okay. So there wasn't an attempt? There 12 was not an attempt to have sex? 13 A. No. 14 Q. So it's not that the pill did not work? 15 A. No, right. 16 Q. Okay. Did you ever have any headaches after 17 taking Viagra? 18 A. You know, I don't think so. 19 Q. Did you ever have any stomach upset from 20 taking Viagra? 21 A. No, I really don't think I did. 22 Q. Did you ever have any blue/green tinged 23 vision after taking Viagra? 24 A. No, I don't recall. Or I may have -- I 25 would have said something to my wife if I would</p>
Page 127	Page 129
<p>1 A. Yes. 2 Q. And were you able to ejaculate? 3 A. Yes. 4 Q. So overall was it a satisfactory experience 5 for you? 6 A. Yes. 7 Q. Did you have any side effects from the 8 medication? 9 A. I can't recall that I did. I can't recall 10 that the warning on that slip that I had any of the 11 effects that -- I think it said something about 12 headaches and upset stomach or blue vision or 13 something, and I can't recall having any of that. 14 Q. After that first time that you took Viagra, 15 how often would you take it? 16 A. Every time we had sex. 17 Q. Which was about how often? 18 A. Once or twice a week. 19 Q. And did you use it the same way? 20 A. Yes. 21 Q. Did you ever take more than one pill? 22 A. No. No, I did not need to. 23 Q. And after you started taking Viagra, did you 24 ever attempt to have sex without the Viagra? 25 A. No, I don't think I did.</p>	<p>1 have, you know. 2 Q. Were you happy with how the Viagra worked? 3 A. Quite fine. 4 Q. And you refilled your prescriptions? 5 A. Yeah. 6 Q. And Dr. Ferrara continued to write 7 prescriptions for you? 8 A. That and give, and give me samples. 9 Q. When he gave you samples, how often -- how 10 many samples would he give you? 11 A. Oh, he'd give me one or two packets. 12 Q. At some point you started getting your 13 medication from the VA? 14 A. Yes. 15 Q. When was that? 16 A. That was after my eyes went bad. 17 Q. But you got Viagra from the VA during that 18 period of time? 19 A. No. No, he would not give it to me. 20 Q. Okay. So you never got Viagra from the VA? 21 A. No. 22 Q. Up until you went to the VA, where were you 23 getting your Viagra from? 24 A. Snyder's. Called Snyder's. 25 Q. And samples?</p>

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Page 130	<p>1 A. Samples I would get from Dr. Ferrara.</p> <p>2 Q. When was the last time you recall getting a</p> <p>3 sample from Dr. Ferrara?</p> <p>4 A. Oh, golly, I -- I, you know, I don't</p> <p>5 remember, I really don't remember when the last time</p> <p>6 I got it from him.</p> <p>7 Q. Did Dr. McEllistrem ever give you samples?</p> <p>8 A. I do not think so. I think he gave me a</p> <p>9 prescription for Viagra.</p> <p>10 Q. You still have Exhibit 1 in front of you,</p> <p>11 which is the fact sheet that we marked earlier. I'm</p> <p>12 going to ask you and your attorney to turn to page</p> <p>13 12 of that. And your attorney will help you.</p> <p>14 And if you look at section F, which asks</p> <p>15 about Viagra ingestion. It says, 1, "Date first</p> <p>16 taken and dosage: Sometime around May 10th, 2000."</p> <p>17 I think we talked today that you actually took</p> <p>18 Viagra prior to that?</p> <p>19 A. Whenever, whenever, whenever it come out, I</p> <p>20 don't remember the dates.</p> <p>21 Q. Okay. Dr. Ferrara's records indicate that</p> <p>22 he gave you a prescription on April 17th, 1998. So</p> <p>23 is that about when you first started taking Viagra?</p> <p>24 A. That could very well be, yeah.</p> <p>25 Q. Then No. 2 says, "Date last taken and</p>	Page 132	<p>1 Q. Do you still have Viagra pills in your</p> <p>2 house?</p> <p>3 A. I may have one or two.</p> <p>4 Q. And are those from samples or from a</p> <p>5 prescription?</p> <p>6 A. I think they're probably from prescriptions.</p> <p>7 MS. LESKIN: We'd ask for copies of any</p> <p>8 labels or bottles, as well as I guess photographs or</p> <p>9 the opportunity to inspect any pills that he still</p> <p>10 has in his possession.</p> <p>11 MS. HAUER: We'll have him check and if</p> <p>12 there's anything there, we'll be happy to provide</p> <p>13 it.</p> <p>14 MS. LESKIN: Figure out a way. Thank</p> <p>15 you.</p> <p>16 BY MS. LESKIN:</p> <p>17 Q. So from 1998, April 1998 when you first</p> <p>18 started taking Viagra, through at least the end of</p> <p>19 2001, is it fair to say that you had no side effects</p> <p>20 from the Viagra?</p> <p>21 A. I can't recall, no, didn't have them.</p> <p>22 Q. And after, after your loss of vision through</p> <p>23 December of 2004, did you have any other side</p> <p>24 effects that you attribute to Viagra?</p> <p>25 A. No, I don't think so.</p>
Page 131	<p>1 dosage." And you wrote, "Sometime after May 30th,</p> <p>2 2004." Is that accurate?</p> <p>3 A. I would say so, pretty much so, yes.</p> <p>4 Q. Okay. And in fact if you look at page 11,</p> <p>5 and this is in a section asking for different</p> <p>6 treatments of erectile dysfunction you have used,</p> <p>7 No. 3 you wrote the treatment was Viagra. And</p> <p>8 listed Dr. McEllistrem as one of the doctors who had</p> <p>9 suggested or prescribed it to you?</p> <p>10 A. Yes, he did suggest it, yeah.</p> <p>11 Q. And here you wrote the date first used was</p> <p>12 actually 1998, as we talked about. And then you</p> <p>13 wrote, "Date last used, December 2004." Is that in</p> <p>14 fact when you stopped using Viagra?</p> <p>15 A. Pretty close. Just stopped using it when</p> <p>16 you started finding out that it was bad for your</p> <p>17 eyes.</p> <p>18 Q. Okay. But that was in December 2004 you</p> <p>19 believe?</p> <p>20 A. That's probably right.</p> <p>21 Q. Okay. And then you said, "Number of times</p> <p>22 tried: Four times per month." Did that stay pretty</p> <p>23 consistent, four times a month between 1998 and</p> <p>24 December 2004?</p> <p>25 A. I think it would be pretty consistent.</p>	Page 133	<p>1 Q. Okay.</p> <p>2 MS. LESKIN: Let's take a break. It's</p> <p>3 a good time to break for lunch, and we'll come back</p> <p>4 and continue.</p> <p>5 MS. HAUER: Okay.</p> <p>6 (Lunch break taken at 12:37 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1 AFTERNOON SESSION, 1:41 P.M. 2 MS. LESKIN: Are we ready? 3 THE WITNESS: I think so. 4 MS. LESKIN: Back on the record. 5 EXAMINATION (Continuing) 6 BY MS. LESKIN: 7 Q. Mr. Martin, how was your lunch? 8 A. Good. Probably more than what I needed, but 9 it was good. 10 Q. You need some energy to continue the day. 11 A. Okay. 12 Q. Before we broke, we were talking about your 13 use of Viagra. 14 A. Mm-hmm. 15 Q. And as you indicated on the fact sheet, you 16 last took Viagra in about December of 2004, right? 17 A. Mm-hmm, yes. 18 Q. Why did you stop taking Viagra? 19 A. Well, I heard all of this news and stuff 20 that Viagra could cause you blindness. 21 Q. Okay. Where did you hear that? 22 A. Well, several places. Over the TV. And 23 several papers had it. And some friends of ours 24 sent us an article that was in I think it was The 25 Week was the magazine about it. And, and it was in</p>	<p>1 Q. Yes? 2 A. Dr. Nichols, yes. Dr. Ferrara. Dr. Hoj. 3 Let's see, what was the other. Dr. Griffin from the 4 VA. The heart doctor that did the stress test, I 5 asked him. And I all got the same answer; that 6 they, they didn't know. 7 Q. Let's take that one at a time. When did you 8 first -- when you say you asked them what caused it, 9 did you ask them what caused it? Or did you ask 10 them whether Viagra caused it? 11 A. I asked them what would be the cause of, you 12 know. 13 Q. When did you first ask Dr. Nichols what was 14 the cause of your NAION? 15 A. The first time I seen him. 16 Q. And what did he tell you? 17 A. He said he didn't know. He said my eyes, he 18 said my eyes would probably come back. 19 Q. Okay. 20 A. And my right eye never did come back. And 21 the same, and the same thing I asked him again, you 22 know, when I went in the second time. And he said 23 he didn't know. 24 Q. Did he tell you any potential risk factors 25 as to what would cause NAION?</p>
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<p>1 the paper, like I say. And on TV. And up until 2 then, I had asked every doctor that I had seen, and 3 I'd seen many doctors, about what the cause, and 4 nobody would, nobody would say anything about the 5 cause. 6 Q. In December of 2004, did any doctor 7 specifically tell you to stop taking Viagra? 8 A. If I'm not mistaken, I think Dr. Ferrara 9 said, "You better stop taking that." And he would 10 not prescribe any more and he wouldn't give me any 11 more. 12 Q. Any other doctor? 13 A. That's the only one. I only got one 14 prescription from McEllistrem. And I never asked 15 for any more from him because I already had some. 16 Q. You said you asked several doctors over the 17 years what could have caused your NAION? 18 A. Yes. 19 Q. What doctors did you ask? 20 A. Well, every one that I seen after my eyes 21 went bad. Trying to think of the -- the eye doctor. 22 Q. Which eye doctor? 23 A. The one from St. Paul Eye Clinic. 24 Q. Is that Dr. Nichols? 25 A. Dr. -- yeah.</p>	<p>1 A. No. No. He just sent me right back to 2 Dr. Ferrara to take a sed rate test. And I had two 3 sed rate tests that turned out normal. 4 Q. Have you heard the expression NAION before? 5 A. Heard what? 6 Q. What diagnosis have you been given for your 7 eyes? What did they tell you it was? 8 A. Ischemic optic neuropathy. 9 Q. Okay. 10 A. But I have talked to -- since then I have 11 talked to four doctors that said that I could -- 12 losing my eyesight could possibly be from Viagra, 13 four doctors. 14 Q. Which four doctors are those? 15 A. Nichols. I'll tell you how he said this. 16 So he wouldn't put himself at risk. He said he had 17 talked to a friend of his, ophthalmologist, and the 18 ophthalmologist, his friend, said that Viagra could 19 cause. And he told me that. It's not on the 20 record, but he did tell me that. 21 Q. Did he tell you this friend's name? 22 A. No, he did not. 23 Q. And when did you have this conversation with 24 Dr. Nichols? 25 A. This was my, I think it was my last eye</p>

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<p>1 visit with him.</p> <p>2 Q. Which would have been when?</p> <p>3 A. Oh, about -- I don't think I've seen him for</p> <p>4 about a year now, a year and a half.</p> <p>5 Q. Okay, other than Dr. Nichols, who else told</p> <p>6 you that Viagra could cause your --</p> <p>7 A. Dr. Griffin sent me that informational</p> <p>8 sheets saying, from the VA, saying that Viagra could</p> <p>9 cause blindness.</p> <p>10 Q. What informational sheets?</p> <p>11 A. I gave it to, I gave it to you. There's a</p> <p>12 sheet there that I got from the VA. We gave you a</p> <p>13 photocopy of it.</p> <p>14 Q. Okay, we'll see if we have it. If not, we'd</p> <p>15 like another copy.</p> <p>16 Did you have a conversation with Dr. Griffin</p> <p>17 after he sent you the sheet?</p> <p>18 A. No -- well, I see him once a year. I only</p> <p>19 see him once a year.</p> <p>20 Q. And after you saw him, did you have a</p> <p>21 conversation about Viagra and your eye condition</p> <p>22 after he sent you that sheet?</p> <p>23 A. Well, he just asked me how my eyes were</p> <p>24 doing. And if I wanted to go to the eye doctor</p> <p>25 there at the VA, he could set me up with an</p>	<p>1 received it?</p> <p>2 A. No. I could -- it's probably dated on that.</p> <p>3 I'm sure I gave it to somebody.</p> <p>4 Q. Okay, my question more is when you received</p> <p>5 it, not when it was dated.</p> <p>6 A. When I received it. It's been, it's been a</p> <p>7 couple three years.</p> <p>8 Q. Okay. Who's the third doctor who told you</p> <p>9 that Viagra could cause your vision problems?</p> <p>10 A. Let's see. I'm trying to think of who was</p> <p>11 the other ones. Well, Dr. Ferrara said it, that</p> <p>12 it's a possibility. He said he had talked to a</p> <p>13 colleague. And the same, they couched it the same</p> <p>14 way, that it could possibly be the cause of my</p> <p>15 vision loss. He didn't come right out and say we</p> <p>16 know for a fact. He always -- they always put it on</p> <p>17 that a colleague mentioned it to 'em.</p> <p>18 Q. Do you know which colleague?</p> <p>19 A. Hey, no, I don't. This is the way they put</p> <p>20 it so they don't put themselves into jeopardy.</p> <p>21 Q. Did Dr. Ferrara tell you anything more other</p> <p>22 than "a colleague told me it could possibly cause</p> <p>23 ischemic optic neuropathy"?</p> <p>24 A. No.</p> <p>25 Q. Who was the fourth doctor who told you that?</p>
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<p>1 appointment.</p> <p>2 Q. And did you?</p> <p>3 A. No, I did not.</p> <p>4 Q. What did this sheet from the VA say on it?</p> <p>5 A. The exact words? I can't tell you the exact</p> <p>6 words, I'd have to get the --</p> <p>7 Q. Generally do you remember what it said?</p> <p>8 A. It said that Viagra could be -- could cause</p> <p>9 the loss of vision.</p> <p>10 Q. Do you know what that was based on? Did it</p> <p>11 say what it was based on?</p> <p>12 A. You have to call the VA to find out what it</p> <p>13 was based on.</p> <p>14 Q. Okay. You don't recall what it was based</p> <p>15 on?</p> <p>16 A. Well, I know it didn't, it didn't say, you</p> <p>17 know.</p> <p>18 Q. Okay. Who was --</p> <p>19 A. It was a warning from what I could, from</p> <p>20 what I could figure out.</p> <p>21 Q. And when did you receive that?</p> <p>22 A. Couple years ago.</p> <p>23 Q. Any more precise date?</p> <p>24 A. Pardon?</p> <p>25 Q. Any more precise date as to when you</p>	<p>1 A. Let's see. I got Griffin. Now I'm drawing</p> <p>2 a blank. I'm sorry, you're going to have to let me</p> <p>3 think about it for -- I'll come back to that.</p> <p>4 Q. Okay.</p> <p>5 A. I have to get the doctor -- there's so many,</p> <p>6 I've seen so many doctors. A doctor, the one from</p> <p>7 Maryland.</p> <p>8 Q. Dr. Pomeranz?</p> <p>9 A. Dr. Pomeranz, I talked to him on the phone.</p> <p>10 Q. Is that the fourth doctor?</p> <p>11 A. That's the fourth doctor, yeah. That he</p> <p>12 said it could be the possible cause, could I send</p> <p>13 him my medical records. I didn't see him, but I</p> <p>14 talked to him twice on the telephone at length. And</p> <p>15 he wasn't seeing anybody because he was going back,</p> <p>16 I think he was either going back out east or back</p> <p>17 out to Maryland, so he wasn't seeing any more</p> <p>18 patients.</p> <p>19 Q. Okay, when's the first time you talked to</p> <p>20 Dr. Pomeranz?</p> <p>21 A. The exact date, I couldn't tell you what the</p> <p>22 exact date. My wife has all of the dates. And it's</p> <p>23 all in the records that we had sent you, the dates</p> <p>24 and the times that we had talked to him.</p> <p>25 MS. HAUSER: It's on the fact sheet on</p>

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1 17.
2 MS. LESKIN: I was just going to turn
3 there.
4 BY MS. LESKIN:
5 Q. As your attorney pointed out, on page 17 of
6 the fact sheet, 16 and 17, you do identify
7 Dr. Pomeranz as one of the physicians with whom you
8 spoke.
9 A. Yes.
10 Q. And the first date listed is May 18th, 2005?
11 A. It could very well be, yes.
12 Q. And the address you gave for Dr. Pomeranz is
13 at the University of Minnesota?
14 A. Yes, but he's not there anymore, he's left
15 some time ago.
16 Q. When you spoke to him, though, he was at the
17 University of Minnesota?
18 A. Yes, yes, he was.
19 Q. How did you get to talk to Dr. Pomeranz?
20 How did you find him?
21 A. How did we? Some friend of ours from New
22 Hampshire sent us an article about Viagra and the
23 loss of vision. And it gave a telephone number.
24 And we tried the telephone number, but we could
25 never, we could never -- never get ahold of anybody

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1 at that telephone number. We called and called and
2 called and called and nobody ever answered the
3 phone, so I don't know what the problem was there.
4 But somebody -- oh, we talked to, I'm not sure who
5 my wife talked to about Dr. Pomeranz, and she said,
6 "Well, he's at the University of Minnesota." So we
7 called over at the University of Minnesota and got
8 his telephone number. And we talked to him then.
9 Q. And did you talk to him or did your wife
10 talk to him?
11 A. I talked to -- no, I talked to him.
12 Actually we had, we had extension phones, both me
13 and my wife talked to him.
14 Q. And during that first conversation, how long
15 would you say you spoke on the phone?
16 A. Oh, I would say probably 10, 15 minutes.
17 Quite some time.
18 Q. And what did you talk about?
19 A. Which really surprised me.
20 Q. And what did you talk about with him?
21 A. About what had happened to my eyes. And how
22 many people that he had in the study at that time
23 that had vision problems with Viagra. But he wasn't
24 taking any more patients. And then he would -- then
25 he said, "Could you send me your medical records."

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1 And we did, we got all the medical records together
2 and sent them to him.
3 Q. During the first conversation, did
4 Dr. Pomeranz tell you whether or not he believed
5 Viagra could cause ischemic optic neuropathy?
6 A. He did say that.
7 Q. Did he tell you what that was based on?
8 A. No. He was doing a study on it.
9 Q. Did he tell you what kind of study he was
10 doing?
11 A. To see if Viagra would be a possible cause
12 of blindness.
13 Q. Did he tell you how he was setting the study
14 up?
15 A. No, I didn't ask him that.
16 Q. Did he tell you how many patients were
17 involved?
18 A. If I remember right he had, he had over a
19 dozen. I'm not sure. Maybe my wife has it written
20 down on some of the paperwork that she had taken,
21 'cause she was writing down a lot of stuff that we
22 had talked about.
23 Q. Did Dr. Pomeranz tell you whether or not he
24 had published anything regarding this investigation
25 he was doing?

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1 A. No. But he also, he said that he would, if
2 I had a lawsuit or something, that he would be happy
3 to come and talk with youse.
4 Q. Was this the first conversation you had with
5 them?
6 A. No, I think it was the second conversation,
7 after he looked at my medical records.
8 Q. What medical records did you send him?
9 A. I sent him all my medical records.
10 Q. Going back how far?
11 A. I think we went back five years, five or,
12 yeah, I think it was five years.
13 Q. From which doctors?
14 A. From all of my doctors.
15 Q. Specifically which doctors?
16 A. Well, you got Dr. Ferrara. I think it was
17 Dr. McEllistrem. I think it was Dr. Hoj. I think
18 it was from the heart doctor. Dr. Griffin. And the
19 eye doctor -- God, I can't remember all the doctors'
20 names that I've gone through.
21 MS. HAUER: Dr. Nichols?
22 THE WITNESS: Nichols, yeah.
23 A. Otherwise I never seen any doctors until my
24 eyes went bad, just one.
25 BY MS. LESKIN:

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1 Q. Did you -- how long after you sent him the
2 records did you talk to him again?
3 A. I'm not, I'm not -- I'm not sure. I think
4 my wife has that written down.
5 Q. The fact sheet, Exhibit 1, has the second
6 date of July 18th, 2005. Is that the second time
7 you talked to him?
8 A. I don't even know what the first date was.
9 Q. Okay. It was about two months in between
10 the two conversations?
11 A. It was some time in between, yeah.
12 Q. And did he call you or did you call him?
13 A. I think he called us, if I'm not mistaken.
14 Q. Did you, when you sent him the medical
15 records, did you send him any cover letters with it?
16 A. What do you mean by cover letters?
17 Q. Did you write him a letter to send along
18 with the medical records?
19 A. I think my wife did, yes.
20 Q. Okay. And do you know what that letter
21 said?
22 A. No.
23 Q. Did you keep a copy of the letter?
24 A. She may have one. She had -- she got copies
25 of almost everything.

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1 Q. Okay.
2 MS. LESKIN: We'd request copies of any
3 correspondence with Dr. Pomeranz.
4 MS. HAUER: We will certainly check.
5 BY MS. LESKIN:
6 Q. Did you have any e-mail correspondence with
7 Dr. Pomeranz?
8 A. No.
9 Q. So when he called you on this -- on or about
10 July 18th, which is the date in the fact sheet, how
11 long were you on the phone with him on that time?
12 A. I would say probably maybe 20 minutes, 15,
13 20 minutes. Quite some time. It was really
14 surprising that he stayed and talked to us that
15 long.
16 Q. Was that, again, was that just you, was it
17 your wife, or both of you?
18 A. Both of us.
19 Q. Did you take any notes or did your wife take
20 any notes that you recall?
21 A. I think my wife did.
22 MS. LESKIN: Okay, we'd request any
23 notes, as well, of any conversation that he had.
24 A. But I think she added that in to a lot of
25 the stuff that has been sent to you or.

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1 Q. Okay, we'll take a look. And we'll talk to
2 her about it as well.
3 A. Okay.
4 Q. What did he tell you during that
5 conversation?
6 A. Well, you know, he had gone through my
7 medical records and stuff and that. Exactly every
8 word for word, I can't tell you word for word what
9 he said. But he said that it could be possible that
10 that's what caused my eyes to go bad.
11 Q. Did he give you any other possibilities as
12 to what caused your eyes to go bad?
13 A. You mean as far as something else to cause
14 'em?
15 Q. Yes.
16 A. No.
17 Q. Did he tell you what else could cause
18 ischemic optic neuropathy?
19 A. No.
20 Q. Did you ask him?
21 A. No -- well, I asked him, you know, what
22 could cause it. And this is what he said that could
23 have caused it.
24 Q. Did he tell you why he thought Viagra could
25 have caused your eye problems?

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1 A. Did he tell me why? You know, just looking
2 at my medical records is what he, I suppose what
3 he --
4 Q. Did he tell you anything in particular about
5 your medical records that led him to believe that
6 Viagra could cause your ischemic optic neuropathy?
7 A. No. I don't really remember.
8 Q. What else do you recall about that
9 conversation?
10 A. Well, we talked quite a bit at length at
11 certain things, but I don't -- I don't remember word
12 for word what we had, you know, what we had talked
13 about.
14 Q. Did Dr. Pomeranz send you a bill for the
15 time he spent consulting?
16 A. No.
17 Q. Did you ever send him any money?
18 A. No.
19 Q. But he told you that if you were going to
20 file a lawsuit he would come and testify as an
21 expert?
22 A. He said that he would be happy to -- this is
23 what he said.
24 Q. That he'd be happy to what?
25 A. To come and go to court or whatever.

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Page 150	<p>1 Q. And tell you -- he told you that he would</p> <p>2 testify that Viagra caused your visual problems?</p> <p>3 A. I think that's probably what he was going to</p> <p>4 say, yes.</p> <p>5 Q. At the time you spoke to him, had you spoken</p> <p>6 to any lawyers yet?</p> <p>7 A. Any lawyers?</p> <p>8 Q. Yes.</p> <p>9 A. I have never spoke to any other lawyers</p> <p>10 except these people here -- well no, I can't say</p> <p>11 that, we had -- no, it was before any lawyers or</p> <p>12 anything.</p> <p>13 Q. Since filing the lawsuit, have you had any</p> <p>14 conversations with Dr. Pomeranz?</p> <p>15 A. Not since then, no, not since he left, no.</p> <p>16 Q. Since that second conversation we just</p> <p>17 talked about, have you spoken with him at all?</p> <p>18 A. No. No.</p> <p>19 Q. Have you had any written correspondence with</p> <p>20 him?</p> <p>21 A. No.</p> <p>22 Q. Do you know where he's located now?</p> <p>23 A. No.</p> <p>24 Q. Were you aware that he's testified in this</p> <p>25 litigation?</p>	Page 152	<p>1 A. No.</p> <p>2 Q. Are you aware that the Court has excluded</p> <p>3 Dr. Pomeranz's opinion from this court -- from this</p> <p>4 litigation?</p> <p>5 A. No, I did not know that.</p> <p>6 Q. I want to go back to the three other</p> <p>7 conversations that you said you had, I just want to</p> <p>8 make sure I understand them. You said you had</p> <p>9 conversations with Dr. Nichols. And the first time</p> <p>10 he told you he did not know what caused your vision</p> <p>11 loss?</p> <p>12 A. That's right.</p> <p>13 Q. But the last time you saw him he said a</p> <p>14 friend of his said that Viagra could cause ischemic</p> <p>15 optic neuropathy?</p> <p>16 A. Yes.</p> <p>17 Q. Is there anything else that Dr. Nichols told</p> <p>18 you about any potential causal link between</p> <p>19 Viagra --</p> <p>20 A. No.</p> <p>21 Q. -- and ischemic optic neuropathy?</p> <p>22 A. Nope.</p> <p>23 Q. Did Dr. Nichols provide you any papers or</p> <p>24 articles about Viagra --</p> <p>25 A. No.</p>
Page 151	<p>1 A. Would he testify?</p> <p>2 Q. Are you aware that he has testified in this</p> <p>3 litigation?</p> <p>4 A. No.</p> <p>5 Q. Are you aware that Dr. Pomeranz testified in</p> <p>6 this litigation that he does not believe that -- he</p> <p>7 does not have the opinion that Viagra causes --</p> <p>8 A. I didn't know that.</p> <p>9 Q. Have you been given copies of any filings or</p> <p>10 any court orders from this litigation?</p> <p>11 A. I think just -- I don't think so.</p> <p>12 MS. HAUER: She's just asking you what</p> <p>13 you know and remember.</p> <p>14 A. I don't -- any filings?</p> <p>15 Q. Yes. Anything that was filed with the</p> <p>16 court.</p> <p>17 A. Well, I just got -- golly, I don't know.</p> <p>18 Q. Were you given a copy of the Court's order</p> <p>19 regarding challenges to the various experts in the</p> <p>20 litigation?</p> <p>21 A. No.</p> <p>22 Q. Are you aware of what the Court ordered</p> <p>23 regarding experts in this litigation so far?</p> <p>24 A. Experts?</p> <p>25 Q. Yes.</p>	Page 153	<p>1 Q. -- and ischemic optic neuropathy?</p> <p>2 A. Nope.</p> <p>3 (Reporter interrupted due to</p> <p>4 simultaneous speaking.)</p> <p>5 Q. Did Dr. Nichols give you any written</p> <p>6 articles about the supposed causal connection</p> <p>7 between Viagra and ischemic optic neuropathy?</p> <p>8 A. No.</p> <p>9 Q. Do you recall any other conversations with</p> <p>10 Dr. Nichols about any potential link between Viagra</p> <p>11 and ischemic optic neuropathy?</p> <p>12 A. No. No.</p> <p>13 Q. You also said you got information from</p> <p>14 Dr. Griffin, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And that was the written sheet?</p> <p>17 A. Yes.</p> <p>18 Q. Other than that written sheet, have you had</p> <p>19 any conversations with Dr. Griffin about any</p> <p>20 potential link between Viagra and ischemic optic</p> <p>21 neuropathy?</p> <p>22 A. No.</p> <p>23 Q. And you said you also spoke with</p> <p>24 Dr. Ferrara?</p> <p>25 A. Yes.</p>

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Richard Martin 8/5/2008
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Page 154	<p>1 Q. And you said that Dr. Ferrara told you that</p> <p>2 he talked to a colleague and the colleague said it</p> <p>3 could potentially be related?</p> <p>4 A. Yes.</p> <p>5 Q. Do you remember anything else about that</p> <p>6 conversation?</p> <p>7 A. No, it was just on one of the visits.</p> <p>8 Q. Do you remember when that visit was?</p> <p>9 A. No, I do not.</p> <p>10 Q. Did you ever ask any of your doctors as to</p> <p>11 whether any of your other medications could be</p> <p>12 related to your ischemic optic neuropathy?</p> <p>13 A. I asked 'em what would be the cause of my</p> <p>14 eyes going bad.</p> <p>15 Q. Okay.</p> <p>16 A. None of 'em gave me any information</p> <p>17 whatsoever.</p> <p>18 Q. Okay, but did you ever --</p> <p>19 A. And I asked every time I seen one. I got no</p> <p>20 answers from 'em.</p> <p>21 Q. But did you specifically ask any of your</p> <p>22 doctors about any of your other medications being</p> <p>23 potentially -- having potentially caused ischemic</p> <p>24 optic neuropathy?</p> <p>25 A. No.</p>	Page 156	<p>1 Q. Okay.</p> <p>2 A. In fact, Dr. Ferrara called up and said stop</p> <p>3 taking everything.</p> <p>4 Q. Did you ever ask any of your doctors whether</p> <p>5 Catapres was related to your ischemic --</p> <p>6 A. I think --</p> <p>7 Q. Optic neuropathy -- let me finish the</p> <p>8 question. Did you ever ask any of your doctors</p> <p>9 whether Catapres was related to your ischemic optic</p> <p>10 neuropathy?</p> <p>11 A. I think I asked Dr. Ferrara. And I think I</p> <p>12 asked, I think we called the druggist on that and</p> <p>13 asked the druggist if there could be any related,</p> <p>14 you know. And they both said no, that they didn't</p> <p>15 think that it would have any problems.</p> <p>16 (Discussion held off the record.)</p> <p>17 BY MS. LESKIN:</p> <p>18 Q. Do you recall telling Dr. McEllistrem that</p> <p>19 you had started taking the Catapres and it caused</p> <p>20 you some dizziness?</p> <p>21 A. It's possible. Is that Dr. McEllistrem?</p> <p>22 Q. Yes.</p> <p>23 A. I didn't take it that long, I only took it</p> <p>24 for it had to be two, three weeks at the most that</p> <p>25 I'd taken it. I don't know if I'd seen him at that</p>
Page 155	<p>1 Q. We talked earlier about your use of</p> <p>2 Catapres?</p> <p>3 A. Yes.</p> <p>4 Q. And according to your medical records, you</p> <p>5 started using Catapres about a week before the onset</p> <p>6 of your first ischemic optic neuropathy attack?</p> <p>7 A. Yes, a week or two, I'm not exactly when.</p> <p>8 Q. And you continued using Catapres after that,</p> <p>9 correct?</p> <p>10 A. After?</p> <p>11 Q. After your first eye.</p> <p>12 A. No, I did not. I only got one, I only got</p> <p>13 one prescription filled with the Catapres. And I</p> <p>14 didn't use the whole. I still got some, one or two</p> <p>15 patches left.</p> <p>16 Q. In addition to the prescription, did you get</p> <p>17 a sample of Catapres?</p> <p>18 A. No.</p> <p>19 Q. So the only time you used Catapres was with</p> <p>20 the prescription?</p> <p>21 A. Yes.</p> <p>22 Q. So when you say that you didn't use it</p> <p>23 after, did you stop using the Catapres after your</p> <p>24 right eye started losing vision or after both eyes?</p> <p>25 A. After both eyes.</p>	Page 157	<p>1 time or not.</p> <p>2 Q. Well, did you report to Dr. McEllistrem that</p> <p>3 the medication -- that you had some dizziness upon</p> <p>4 standing up and that you developed difficulty with</p> <p>5 your vision after that?</p> <p>6 A. After the Catapres?</p> <p>7 Q. After experiencing some dizziness upon</p> <p>8 standing up.</p> <p>9 MS. HAUER: Objection to form just</p> <p>10 because I'm not sure he's clear what time period</p> <p>11 you're asking about.</p> <p>12 MS. LESKIN: I'm not asking any</p> <p>13 particular time period.</p> <p>14 MS. HAUER: Okay.</p> <p>15 BY MS. LESKIN:</p> <p>16 Q. I'm asking do you recall telling</p> <p>17 Dr. McEllistrem that you had taken a new medication</p> <p>18 for hypertension, that you experienced some</p> <p>19 dizziness upon standing up, and that you suddenly</p> <p>20 developed difficulty with vision?</p> <p>21 A. I may have said that after I had quit taking</p> <p>22 it. Or the next time I had saw him I may have said</p> <p>23 that.</p> <p>24 Q. Okay. I want to talk a little bit about the</p> <p>25 onset of your vision problems.</p>

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<p>1 A. Mm-hmm.</p> <p>2 Q. We said that your right eye started having</p> <p>3 some problems in either the end of April or</p> <p>4 beginning of May of 2002, is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. Do you remember the specific date?</p> <p>7 A. The specific date, not exactly the date, but</p> <p>8 I'm sure it's on the sheet that we had. That would</p> <p>9 be the, the day before I seen Dr. Ferrara and</p> <p>10 Dr. Nichols.</p> <p>11 Q. Okay.</p> <p>12 MS. HAUER: Page 18 of your fact sheet</p> <p>13 notes the date of --</p> <p>14 MS. LESKIN: Counsel.</p> <p>15 MS. HAUER: He can't see it, I'm just</p> <p>16 trying to --</p> <p>17 MS. LESKIN: Okay.</p> <p>18 MS. HAUER: On page 18, you</p> <p>19 indicated --</p> <p>20 MS. LESKIN: No, I'm not asking. I</p> <p>21 will ask the questions, thank you.</p> <p>22 MS. HAUER: Okay.</p> <p>23 BY MS. LESKIN:</p> <p>24 Q. But sitting here today, you don't recall the</p> <p>25 specific date other than what's written in the</p>	<p>1 backyard, and I have a small garden back there, and</p> <p>2 I bent over to pick a few weeds. And when I stood</p> <p>3 up, half of my -- bottom half of my right eye was</p> <p>4 blank, was black. I didn't feel nothing, but it</p> <p>5 just went blank, just absolutely blank.</p> <p>6 But it was 7 or, 7:30 in the afternoon, and</p> <p>7 I knew that I couldn't see no doctors at that time</p> <p>8 of day. So the next morning, I called Dr. Ferrara's</p> <p>9 office and told him that I had a vision problem and</p> <p>10 I'd like to see the doctor as soon as I could.</p> <p>11 And I went down there and I saw Dr. Ferrara.</p> <p>12 And he looked at my eye and he said, "I think you</p> <p>13 got a detached retina. I'm going to send you to</p> <p>14 Dr. Nichols."</p> <p>15 I went to Dr. Nichols and he says, "You</p> <p>16 don't have a detached retina, but you've got a</p> <p>17 swollen optic nerve and go back to Dr. Ferrara and</p> <p>18 have a sed rate test." And I did that. And the sed</p> <p>19 rate test was normal.</p> <p>20 And they said, "Your eyes will probably come</p> <p>21 back, you don't have a detached retina." But they</p> <p>22 got -- it got worse, until I lost my entire vision</p> <p>23 in my right eye.</p> <p>24 Q. Okay. Let me go back then. What day of the</p> <p>25 week was April 30th, do you recall?</p>
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<p>1 records, is that fair to say?</p> <p>2 A. That's fair to say.</p> <p>3 Q. Okay. On your fact sheet, as counsel</p> <p>4 started to point out, on page 18, question R, you</p> <p>5 have, "NAION," N-A-I-O-N -- let me ask you, do you</p> <p>6 know what N-A-I-O-N stands for?</p> <p>7 A. I've heard it, but I don't know what it</p> <p>8 means.</p> <p>9 Q. Okay. Are you aware that, generally used,</p> <p>10 it's to stand for nonarteritic ischemic optic</p> <p>11 neuropathy?</p> <p>12 A. Okay, that I've heard, yes.</p> <p>13 Q. Okay. And it says the date of the onset is</p> <p>14 April 30th, 2002. Does that sound right?</p> <p>15 A. Sounds right.</p> <p>16 Q. Is that approximately when you noticed the</p> <p>17 first problems in your right eye?</p> <p>18 A. Yes.</p> <p>19 Q. Tell me --</p> <p>20 A. Yes.</p> <p>21 Q. Tell me what happened.</p> <p>22 A. What happened?</p> <p>23 Q. Yes.</p> <p>24 A. Oh, I can tell you what happened that day.</p> <p>25 Later on in the afternoon when I was down in the</p>	<p>1 A. No.</p> <p>2 Q. And what had you been doing that day during</p> <p>3 the day?</p> <p>4 A. During the day I was just probably out in</p> <p>5 the yard working in the yard. I do a lot of work</p> <p>6 and stuff -- actually I was working on a garden</p> <p>7 tractor half the day.</p> <p>8 Q. And you say working on a garden tractor?</p> <p>9 A. Yes.</p> <p>10 Q. Tell me what you were doing.</p> <p>11 A. A riding tractor. A riding mower is what it</p> <p>12 is. I think probably -- I think what I was doing</p> <p>13 was I think I took the mower deck off and was</p> <p>14 sharpening the blades and stuff on the mower deck.</p> <p>15 And that takes quite a while.</p> <p>16 And after, I had walked up to, up to the</p> <p>17 garage after my eye went black, I didn't say nothing</p> <p>18 to my wife but I just went back to working on my</p> <p>19 garden tractor until it got dark out and stuff. And</p> <p>20 then I come in the house and watched TV for a while</p> <p>21 and went to bed.</p> <p>22 And then the next morning I told my wife</p> <p>23 that I had to see the doctor because I lost the</p> <p>24 vision, half the vision in my right eye.</p> <p>25 Q. Let's go back. On April 30th, what time</p>

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<p>1 would you say you woke up that morning?</p> <p>2 A. I usually am up about 7.</p> <p>3 Q. And is that the -- so you believe that day</p> <p>4 would have been your normal time getting up?</p> <p>5 A. It usually is my normal time to get up.</p> <p>6 Q. Okay. And then what did you do after you</p> <p>7 got up?</p> <p>8 A. Well, you clean up and have breakfast. And</p> <p>9 I usually go out in the yard and work. Or I'm not</p> <p>10 sure if we went anyplace that day or I went anyplace</p> <p>11 that day. I think probably I worked in the yard</p> <p>12 most of the day. Or I may have, I may have cut</p> <p>13 grass early in the morning or -- because that's why</p> <p>14 I was working on the tractor, garden tractor.</p> <p>15 Q. I'll represent to you that April 30th, 2002</p> <p>16 was a Tuesday, according to the calendar.</p> <p>17 A. Okay.</p> <p>18 Q. Okay. Did you go to work that day?</p> <p>19 A. No.</p> <p>20 Q. Prior to that day, when would the last time</p> <p>21 you had worked have been?</p> <p>22 A. When was the last time I worked? I had no</p> <p>23 schedule for working. I had an ongoing deal with</p> <p>24 the owner of Whip Air to work on his airplanes</p> <p>25 whenever I wanted to. So I had, absolutely had no</p>	<p>1 A. That I was dizzy? I may have got a little</p> <p>2 dizzy when I stood up.</p> <p>3 Q. Okay.</p> <p>4 A. But that's about it.</p> <p>5 Q. Did that happen a lot when you stood up, you</p> <p>6 would get a little dizzy?</p> <p>7 A. No, not really.</p> <p>8 Q. Okay. And then was it very sudden that you</p> <p>9 noticed your vision was lost in the bottom half of</p> <p>10 your eye? Or was it more of a gradual?</p> <p>11 A. It was gone. From the time I knelt down and</p> <p>12 stood up, it was gone just like that. I mean I just</p> <p>13 couldn't believe it you could do something that</p> <p>14 fast.</p> <p>15 Q. And when you say it was gone, was there just</p> <p>16 a line through -- what were you not seeing or</p> <p>17 seeing?</p> <p>18 A. I could not see through the bottom half of</p> <p>19 my right eye, it was completely black. I could see</p> <p>20 through the top half. And the next morning I could</p> <p>21 see through the top half, but it was getting a</p> <p>22 little, little fuzzy.</p> <p>23 Q. When you say you couldn't see through the</p> <p>24 bottom, so when you were looking was the bottom of</p> <p>25 your vision blocked out?</p>
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<p>1 schedule.</p> <p>2 Q. So as of April 30th, 2002, what was the last</p> <p>3 date you had gone in to work?</p> <p>4 A. When was the last day I went in to work? It</p> <p>5 would probably been the Friday before I would say.</p> <p>6 I usually work three or four days. I didn't work</p> <p>7 the whole week.</p> <p>8 Q. Okay. Do you recall anything in particular</p> <p>9 you had done that Monday, the 29th?</p> <p>10 A. No, I really can't say I did.</p> <p>11 Q. Okay, so on April 30th you worked in the</p> <p>12 yard and you worked on the motor of your riding</p> <p>13 mower?</p> <p>14 A. Yes.</p> <p>15 Q. And then you did some gardening?</p> <p>16 A. Well, I went down and looked at the garden.</p> <p>17 I didn't do anything except pull a few weeds.</p> <p>18 Q. Okay. And did you kneel down or you bent</p> <p>19 over?</p> <p>20 A. I knelt down, yeah.</p> <p>21 Q. Okay. And when you knelt down were you</p> <p>22 feeling dizzy at all?</p> <p>23 A. No.</p> <p>24 Q. Did you report to your doctor that you had</p> <p>25 been dizzy?</p>	<p>1 A. The bottom of my vision was completely</p> <p>2 black. I mean just totally black.</p> <p>3 Q. So was there like a line that you saw?</p> <p>4 A. Just a straight line right across the bottom</p> <p>5 of my eye. Black.</p> <p>6 Q. And if you closed one eye, you were able to</p> <p>7 see out of your left eye at that point?</p> <p>8 A. Yes.</p> <p>9 Q. But if you closed your left eye, your right</p> <p>10 eye just, the bottom was black?</p> <p>11 A. The bottom was black. I could still see</p> <p>12 through the top half of the eye.</p> <p>13 Q. Do you recall was there any point in time</p> <p>14 prior to that that you noticed any type of blurred</p> <p>15 vision on the outline?</p> <p>16 A. No.</p> <p>17 Q. Just a very sudden blocking of that vision?</p> <p>18 A. No. No, I've always had very, very good</p> <p>19 vision.</p> <p>20 Q. Had you ever had any complaints of blurred</p> <p>21 vision before that?</p> <p>22 A. No.</p> <p>23 Q. Any onsets of any type of vision problem?</p> <p>24 A. No. Except I needed glasses for reading</p> <p>25 close, you know.</p>

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Page 166	<p>1 Q. Mm-hmm.</p> <p>2 A. But as far as anything else, blurred vision</p> <p>3 or anything, no.</p> <p>4 Q. Do you recall telling your doctor that you</p> <p>5 had seen some type of northern lights blurry vision</p> <p>6 years before?</p> <p>7 A. I think I said that to the eye doctor, if</p> <p>8 I'm not mistaken.</p> <p>9 Q. Okay. And what was it that you had seen</p> <p>10 previously?</p> <p>11 A. Just -- well, he said it was a, what did he</p> <p>12 call it, oh, something -- floaters or whatever.</p> <p>13 Q. Mm-hmm?</p> <p>14 A. Whatever. He said that could possibly be</p> <p>15 floaters, if I'm not mistaken. But that I think</p> <p>16 only happened once or, once or twice.</p> <p>17 Q. Had you taken --</p> <p>18 A. He didn't, I'm sorry, he really didn't seem</p> <p>19 to be too concerned about it some, you know, so.</p> <p>20 But I had mentioned it to him, if I'm not mistaken.</p> <p>21 Q. At the time that this occurred on April</p> <p>22 30th, had you taken your blood pressure medications</p> <p>23 that day?</p> <p>24 A. Oh, yes. I took it, I usually take it right</p> <p>25 after I get up in the morning.</p>	Page 168	<p>1 A. Well, I told Dr. Ferrara.</p> <p>2 Q. When did you tell Dr. Ferrara?</p> <p>3 A. You mean when I lost my vision?</p> <p>4 Q. Yes.</p> <p>5 A. Well, I didn't tell him I had taken it, he</p> <p>6 never asked, you know. And I -- it never dawned on</p> <p>7 me that it would be the, you know, that would be a</p> <p>8 problem.</p> <p>9 Q. When's the first time you told Dr. Ferrara</p> <p>10 that you had taken Viagra the night before you lost</p> <p>11 your vision?</p> <p>12 A. I do not remember.</p> <p>13 Q. Did you tell Dr. Nichols that you had taken</p> <p>14 Viagra the night before?</p> <p>15 A. I don't think so.</p> <p>16 Q. What time had you taken the Viagra?</p> <p>17 A. Usually about 7:30, 8 o'clock.</p> <p>18 Q. So --</p> <p>19 A. Sometime before.</p> <p>20 Q. -- about 24 hours beforehand?</p> <p>21 A. Yeah.</p> <p>22 Q. And you had sex with your wife that night?</p> <p>23 A. Yes, I did.</p> <p>24 Q. Had you seen Dr. Nichols at any time prior</p> <p>25 to Dr. Ferrara sending you over there that day?</p>
Page 167	<p>1 Q. Were you wearing the Catapres patch?</p> <p>2 A. I think I was, yes.</p> <p>3 Q. Do you know when the last time you had</p> <p>4 changed it was?</p> <p>5 A. The last time I had changed it? No, I</p> <p>6 couldn't tell you the exact day I had changed it.</p> <p>7 But I know I was wearing it at that time.</p> <p>8 Q. Had you taken any Viagra that day?</p> <p>9 A. I took it the night before.</p> <p>10 Q. That Monday night?</p> <p>11 A. Mm-hmm.</p> <p>12 Q. Yes?</p> <p>13 A. Yes.</p> <p>14 Q. And how do you recall that you took it</p> <p>15 Monday night?</p> <p>16 A. Well, sometimes it's pretty easy to</p> <p>17 remember.</p> <p>18 Q. I don't understand what you mean by that.</p> <p>19 A. Well, because we had sex that night, that's</p> <p>20 why.</p> <p>21 Q. Okay. And you remember specifically having</p> <p>22 sex the Monday night before your vision problem?</p> <p>23 A. Yes, yeah. Yes.</p> <p>24 Q. Did you ever tell any of your doctors that</p> <p>25 you had taken Viagra the night before?</p>	Page 169	<p>1 A. For my eyes?</p> <p>2 Q. Yes.</p> <p>3 A. I had seen him for glasses. And the glasses</p> <p>4 that I was wearing he said would be just fine, I</p> <p>5 didn't need no adjustment or anything. And I've had</p> <p>6 those glasses probably for ten years. My eyes</p> <p>7 hadn't changed for that long, just to read. It was</p> <p>8 at least ten years that I had that pair of glasses.</p> <p>9 In fact I still got 'em.</p> <p>10 Q. And when you saw Dr. Nichols, you reported</p> <p>11 to him that you had taken Catapres, correct?</p> <p>12 A. I'm not sure.</p> <p>13 Q. If it's indicated in his records?</p> <p>14 A. Okay.</p> <p>15 Q. But you did not indicate to him that you had</p> <p>16 taken Viagra, correct?</p> <p>17 A. No.</p> <p>18 Q. Did Dr. Nichols tell you to start taking any</p> <p>19 other medications?</p> <p>20 A. No. Actually on my second visit, he told</p> <p>21 me -- he gave me a prescription for steroids to take</p> <p>22 the swelling down on my eyes. That was on the</p> <p>23 second visit.</p> <p>24 Q. Which was how long after the first visit?</p> <p>25 A. A month.</p>

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Page 170	<p>1 Q. After the first visit, did Dr. Nichols 2 explain to you what ischemic optic neuropathy was? 3 A. No. 4 Q. Did he give you that as a diagnosis? 5 A. No. I never heard that word until I think 6 from Dr. Harrison from the University. 7 Q. You mentioned that Dr. Nichols ordered a sed 8 rate test? 9 A. Yes. 10 Q. What was your understanding of the purpose 11 of that test? 12 A. To see if I had any -- I think, I think it's 13 for -- let me think here. I'm not quite sure what 14 it, what it, what it's for, but I think it's to see 15 if you have any mucous or anything in your veins or 16 something. I'm not, I'm really not sure. 17 Q. So you don't know why he wanted to know what 18 the sed rate was? 19 A. All I know is that they told me that it was 20 normal. 21 Q. Okay. I just want to go back to the onset 22 real quick. You said that you had gotten a little 23 dizzy when you stood up. Had you gotten dizzy at 24 any other time during the course of the day? 25 A. The day? No.</p>	Page 172	<p>1 St. Paul Eye Clinic on May 9th, 2002? 2 A. No, no, I don't. 3 Q. When did you first start having problems in 4 your left eye? 5 A. When we were coming back -- you mean the 6 date? 7 Q. Yes. 8 A. It was about a month later. 9 Q. Okay. 10 A. And we were driving back -- we was up to the 11 cabin all weekend, and we were driving back from the 12 cabin, my wife was driving. And it was getting 13 towards dusk, and the car lights, I mentioned to her 14 I said, "Geez, there's an awful lot of cars with 15 only one light on." And she said, "No, all the 16 lights are on." And I said, "Well, I can only read 17 half of the -- I can only see half of the lights on 18 on the cars that are coming the other way." 19 And then I looked at the billboard and I 20 could only see half the billboard. And I told 21 her -- and this was about 8 o'clock at night, and I 22 said, "We're going to have to see the doctor again 23 in the morning because I think my eye's going bad." 24 And it started losing the vision in my left eye. 25 Q. So you said about a month later. Your fact</p>
Page 171	<p>1 Q. The day before? 2 A. No. Sometimes if a person stands up really 3 fast -- I'm sure you've done it, too, you get a 4 little at times. If you stand up slow, no. 5 Q. You stand up too fast you get what? A 6 little dizzy? 7 A. If you stand up very fast. 8 Q. And is that what you think you did that day? 9 A. It could have been, yeah. 10 Q. Did you check your blood pressure by chance 11 that day? 12 A. Did I? 13 Q. Yes. 14 A. No. Did Dr. Ferrara? I think he did. 15 Q. Do you remember what your reading was? 16 A. No. He checked me over fairly good and he 17 sent me on to Dr. Nichols. 18 Q. Now, you mentioned that your second visit 19 with Dr. Nichols was about a month later, but in 20 fact you actually saw him about a week after the 21 first, the first eye onset, right? 22 A. I'm sorry, I don't remember I saw -- I don't 23 think I saw him after that, but I possibly could 24 have. 25 Q. You don't remember going back to the</p>	Page 173	<p>1 sheet, page 18, you wrote 5/31/02 as the date of 2 onset. Is that the date? 3 A. Yes. 4 Q. And is that the day before you saw 5 Dr. Ferrara? Or is that the day you were to see 6 him? 7 A. That was, that was the day before, that was 8 on the way home. And the next day -- and the next 9 morning I seen Dr. Ferrara again. 10 Q. You went to Dr. Ferrara? 11 A. Again, yes. And he sent me back up to 12 Dr. Nichols again. And Dr. Nichols looked at my eye 13 and sent me back to -- he ordered prednisone I 14 think, if I'm not mistaken, he ordered prednisone 15 and sent me back to Dr. Ferrara for another sed rate 16 test. And that turned out normal again. 17 Q. The medical records indicate that you were 18 at Dr. Ferrara's office on May 31st. 19 A. Okay. 20 Q. So it would have been May 30th? 21 A. It was May 30th on the way back home, yes. 22 Q. Okay, so that was a Thursday night. 23 A. Okay. 24 Q. Does that -- again, does that sound right? 25 A. It sounds right, yes.</p>

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<p>1 Q. And how long had you been up at the cabin?</p> <p>2 A. A couple of days.</p> <p>3 Q. During the week?</p> <p>4 A. During the week. We usually go up, you</p> <p>5 know, couple of days during the week.</p> <p>6 Q. And had any family been up there with you?</p> <p>7 A. No.</p> <p>8 Q. And you said it was about 8 o'clock at</p> <p>9 night?</p> <p>10 A. Yes, on the way home, we were driving home.</p> <p>11 Q. And was it the same bottom half of your</p> <p>12 vision this time?</p> <p>13 A. No, it was not, it -- the whole eye started</p> <p>14 to get foggy. It looked like you were looking</p> <p>15 through a fog. No, the whole bottom of the half --</p> <p>16 it was not like the right eye. It was, it was the</p> <p>17 left eye, just kind of looking through fog. And</p> <p>18 then I couldn't see half of something. I'd look at</p> <p>19 a billboard and I could only see half of it. But it</p> <p>20 was kind of just a fog.</p> <p>21 Q. And when you say you can only see half, was</p> <p>22 it left versus right? Or top versus bottom?</p> <p>23 A. At the time when we were driving down the</p> <p>24 highway and the cars were coming up in the left-hand</p> <p>25 side, I could only see the lights on the right-hand</p>	<p>1 there was no problem with my left eye at that time.</p> <p>2 It seemed like it comes on very fast.</p> <p>3 Q. Prior to the onset in your left eye, when</p> <p>4 was -- had you used Viagra at any point in time</p> <p>5 since the night before the first eye?</p> <p>6 A. I used it the night before.</p> <p>7 Q. Okay, and again you recall that happening?</p> <p>8 A. I do recall that, because it was just me and</p> <p>9 the wife that were there.</p> <p>10 Q. And what time did you use the Viagra the</p> <p>11 night before?</p> <p>12 A. I would say not too long after supper.</p> <p>13 About 7, 8 o'clock.</p> <p>14 Q. Okay, so again, about a little over 24 hours</p> <p>15 later?</p> <p>16 A. Yes, yeah.</p> <p>17 Q. And in between April 30 -- April 29th, which</p> <p>18 is the time before your first eye?</p> <p>19 A. Mm-hmm.</p> <p>20 Q. And May 29th, the time -- the night before</p> <p>21 your second eye?</p> <p>22 A. Mm-hmm.</p> <p>23 Q. How many times did you use Viagra in the</p> <p>24 interim?</p> <p>25 A. I don't really recall specifically. Not</p>
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<p>1 side of the car.</p> <p>2 Q. And on the billboards?</p> <p>3 A. And on the billboard I could only see the</p> <p>4 right half of the billboard.</p> <p>5 Q. By that point in time, what was your vision</p> <p>6 in your right eye?</p> <p>7 A. It was very good all day long.</p> <p>8 Q. In your right eye?</p> <p>9 A. Oh, I'm sorry. My right eye, I'm sorry, my</p> <p>10 right eye I couldn't hardly see anything out of it</p> <p>11 anymore.</p> <p>12 Q. Okay.</p> <p>13 A. They kept saying it was going to come back.</p> <p>14 And it never did. I think they were hoping that it</p> <p>15 would come back and it didn't.</p> <p>16 Q. And when was the last time you recall using</p> <p>17 that left eye before you noticed these problems in</p> <p>18 the car?</p> <p>19 A. I didn't notice any problems until we were</p> <p>20 driving back. Because maybe it was because it was</p> <p>21 getting dusk or something. And maybe it was just</p> <p>22 the way it was going, I don't know.</p> <p>23 The whole day I had been out in the yard and</p> <p>24 down on the dock and doing things around the cabin</p> <p>25 that needed to be done, mowing the grass and stuff,</p>	<p>1 very often, because we was really concerned about</p> <p>2 my, about my eyes. I don't even know if I had sex</p> <p>3 that whole month until we went up to the cabin.</p> <p>4 Q. But you don't know one way or the other?</p> <p>5 A. I don't recall one way or the other. I</p> <p>6 don't think I did, because we were really concerned</p> <p>7 about my, my eye.</p> <p>8 Q. Did you have any dizziness while you were</p> <p>9 driving?</p> <p>10 A. I wasn't driving that night.</p> <p>11 Q. When you were riding in the car.</p> <p>12 A. No.</p> <p>13 Q. No, you didn't have any dizziness?</p> <p>14 A. No. No, I was sitting upright, no, I was</p> <p>15 fine. It just seemed to come on very slow -- well,</p> <p>16 I don't know.</p> <p>17 Q. Were you sleeping while your wife was</p> <p>18 driving?</p> <p>19 A. No, I never sleep when my wife is driving.</p> <p>20 Q. Did you have any episodes of feeling dizzy</p> <p>21 at any point during the day?</p> <p>22 A. Not during the day, no, huh-uh.</p> <p>23 Q. Did you do anything unusual that day?</p> <p>24 A. No, huh-uh, just working down on the beach</p> <p>25 and the dock and cutting grass and stuff that you</p>

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<p>1 normally do when you go up to the cabin; you work 2 all the time, so. 3 Q. You went to see Dr. Nichols again after that 4 episode? 5 A. I-- yeah, the next day. I did the same 6 thing as with Dr. Ferrara and then Dr. Nichols 7 again. And then that's when he ordered the 8 prednisone, if I'm not mistaken. 9 Q. And how long did you take the prednisone? 10 A. I think I got, I think I got a week's, I 11 think I got a week's, I think it was a week's worth. 12 I'm not sure really, a week or two weeks. Wasn't 13 very long. 14 Q. When you went to see Dr. Nichols the second 15 time, did you tell him that you were taking Viagra? 16 A. No, I did not. 17 Q. And Dr. Nichols sent you to a second 18 opinion, correct? 19 A. Yes. 20 Q. And that was to Dr. Harrison? 21 A. Well, actually Dr. Ferrara sent me to 22 Dr. Harrison at the University of Minnesota. 23 Q. Okay. 24 A. He's the one who got, got the appointment. 25 Q. Okay. And what did Dr. Harrison tell you?</p>	<p>1 had told Dr. Ferrara. 2 Q. Did you ever have a follow-up conversation 3 with Dr. Ferrara about your appointment with 4 Dr. Harrison? 5 A. Well, I probably talked to him the next 6 visit I went to him, but we didn't talk to him about 7 what they had said. 8 Q. Did you tell Dr. Harrison that you had taken 9 Viagra? 10 A. Did I? No, I don't recall. I don't think I 11 did. 12 Q. Dr. Harrison also recommended a temporal 13 artery biopsy, correct? 14 A. That's right. 15 Q. That's where they take a piece of your 16 vessel from your temple? 17 A. Yup. Yup. 18 Q. And did you have that done? 19 A. Yes, on both sides. 20 Q. And what did they tell you? 21 A. They told me that it was normal. Dr. Peter 22 Kelly did that. 23 Q. And did Dr. Harrison talk to you about any 24 potential other treatments? 25 A. No. He said probably go see the Phillips</p>
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<p>1 A. What did Dr. Harrison? 2 Q. Yes. 3 A. He -- we went through a bunch of tests and 4 he said actually that my, my left eye was more 5 swollen than my right eye, except I could see some, 6 something out of my left eye and I couldn't see 7 nothing out of my right eye. And that's the first 8 time I heard about ischemic optic neuropathy. 9 Q. And what did Dr. Harrison tell you about 10 ischemic optic neuropathy? 11 A. It's the loss of blood flow to your optic 12 nerve. 13 Q. And did he tell you what causes that? 14 A. He doesn't -- he didn't know what would 15 cause it. 16 Q. Did he tell you that hypertension was a risk 17 factor for ischemic optic neuropathy? 18 A. No. Nope. Because at that time I -- my 19 blood pressure was under control. I don't think it 20 ever got out of control, but it's always been under 21 control. 22 Q. Are you aware that Dr. Harrison told 23 Dr. Ferrara that he agreed that you had a history of 24 vascular risk factors, including hypertension? 25 A. I didn't know his -- I don't know what he</p>	<p>1 Eye Institute. 2 Q. And did you? 3 A. For the blind. Yes. 4 Q. And who did you see there? 5 A. Well, I seen, there was some doctors there 6 that -- I don't know if they were doctors, but they 7 showed me how to read and -- with glasses and other 8 things that I could look through so I could see 9 better. But that's about all. They never -- I 10 never went through any treatment or anything, they 11 just showed me how to use visual aids. 12 I think I went there six months I think, 13 once a month for six months I think, to help me 14 adjust to the loss of my sight. 15 Q. Did you ever go back to see Dr. Harrison 16 after that initial visit? 17 A. At the U? 18 Q. Yes. 19 A. No. No, because he said he couldn't do 20 nothing for me. 21 Q. Did Dr. Nichols give you any additional 22 information as to what ischemic optic neuropathy 23 was? 24 A. No. 25 Q. And prior to the conversation that you told</p>

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<p>1 me about, where Dr. Nichols told you a colleague 2 said that Viagra could cause NAION -- 3 A. Yes, it was, it was after my eye exam and 4 stuff and we were just talking and he had mentioned 5 that a friend or a colleague, another 6 ophthalmologist, had mentioned it to him that the 7 Viagra could cause the loss of vision. 8 Q. And that was at this last visit of yours? 9 A. I think that was at the last vision [sic] I 10 was there -- or last visit I was there, yeah. 11 Q. And prior to that conversation, had 12 Dr. Nichols ever given you any information regarding 13 the cause of your ischemic optic neuropathy? 14 A. No. 15 Q. And you also continued to see Dr. Ferrara? 16 A. I still see him, yes. 17 Q. Okay. And you've told me again that 18 Dr. Ferrara told you that a colleague had said 19 Viagra could have caused your ischemic optic 20 neuropathy? 21 A. He didn't say mine. He said that it could 22 cause the loss of vision. 23 Q. And did Dr. Ferrara ever tell you what he 24 thought caused your loss of vision? 25 A. He didn't know.</p>	<p>1 with -- 2 A. Well, we had a long conversation. We talked 3 about many different things. What he, I think what 4 he was trying to, what he was trying to see is if I 5 had a memory loss is what I think is what he was 6 looking for. 7 Q. Mm-hmm? 8 A. And then he told me to remember a bunch of 9 numbers. And then he left -- left and said he'd be 10 right back. And then when he come back he asked me 11 what the numbers and stuff were. I think he was 12 looking to check my memory and stuff. And 13 apparently he must have talked to Dr. Ferrara, 14 because I haven't been back there. 15 Q. Did Dr. Hoj tell you what may have caused 16 your ischemic optic neuropathy? 17 A. No. And I asked him, you know, what could 18 have caused, you know, my eyes to go bad. 19 Q. And how did he answer you? 20 A. And I got the same answer from every doctor; 21 they didn't know. They didn't say it's ischemic 22 optic -- they didn't come up with that until after, 23 a long time after my eyes were gone. 24 Q. And Dr. Hoj referred you to have an 25 ultrasound of your carotid arteries?</p>
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<p>1 Q. Did he ever -- 2 A. He never said it was ischemic optic 3 neuropathy. 4 Q. Did he ever tell you that your vision loss 5 was caused by atherosclerotic disease? 6 A. You mean the loss of blood flow? 7 Q. Atherosclerotic disease is damage to your 8 blood vessels. 9 A. No. Well, no, I really don't think he did. 10 Q. You don't recall having that conversation 11 with him? 12 A. No. 13 Q. You also saw Dr. Kenneth Hoj? 14 A. Hoj. 15 Q. Hoj? H-O-J. And he's a neurologist, right? 16 A. He's a neurologist. 17 Q. And why did Dr. Ferrara send you to Dr. Hoj? 18 A. He wanted to check to see if I had had any 19 strokes or anything in my brain. But they took a 20 brain scan at the St. Paul Radiology of my head and 21 they found no -- nothing wrong with my noggin. 22 Q. And you told Dr. Hoj that you had taken 23 Viagra? 24 A. You know, I don't know if I did or not. 25 Q. Do you recall having any conversation</p>	<p>1 A. It was either him or Dr. Ferrara. I was 2 seeing so many doctors, just trying to keep 'em all 3 straight. You can see how many doctors I had seen 4 there in a very short period of time. And none of 5 'em would give me a straight answer of why I lost my 6 eyes, 'cause I asked every one. I asked 'em 7 outright: "What would cause my eyes to go bad like 8 that, that fast?" They didn't, they didn't know. 9 And they never said ischemic optic neuropathy. 10 Q. Did any of your doctors tell you the results 11 of your carotid ultrasound? 12 A. I think, I think Dr. Ferrara did. I think 13 it was 60 percent and 70 percent or something like 14 that in my left and right, if I'm not mistaken. 15 Q. Or had stenosis? 16 A. Pardon? 17 Q. Had blockage? 18 A. Yes. 19 Q. Did he recommend any treatment? 20 A. No. 21 Q. Dr. Hoj -- 22 A. Well, the only thing, the only thing, I'm 23 sorry, the only thing they said, you know, was to 24 take the medication for cholesterol. That would be 25 the only thing.</p>

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<p>1 Q. Which was the Zocor you took?</p> <p>2 A. Which is Zocor.</p> <p>3 Q. Which you've stopped?</p> <p>4 A. Pardon?</p> <p>5 Q. Which you've stopped.</p> <p>6 A. Which I've stopped.</p> <p>7 Q. Dr. Hoj recommended that you do a second</p> <p>8 carotid ultrasound six months after the first one.</p> <p>9 Did you ever have that done?</p> <p>10 A. I could not tell you, I don't remember. I</p> <p>11 could tell you that last time I talked to</p> <p>12 Dr. Ferrara is that my cholesterol was way down. It</p> <p>13 was never very high, but it was down, where he said</p> <p>14 it was very good. That's what he said, it was very</p> <p>15 good.</p> <p>16 Q. But you haven't had that tested since you've</p> <p>17 stopped taking your medication, correct?</p> <p>18 A. No. But I thought I would do it the next</p> <p>19 time I go in.</p> <p>20 Q. Do you have an appointment to see</p> <p>21 Dr. Ferrara?</p> <p>22 A. Not yet.</p> <p>23 Q. Are you familiar with the Sauk Centre</p> <p>24 Agency?</p> <p>25 A. Jonas Salk?</p>	<p>1 can't see out of?</p> <p>2 A. (Shook head negatively.) If I close my left</p> <p>3 eye, I can't see you. I can see -- I can see just a</p> <p>4 very slight image here. I cannot see nothing over</p> <p>5 here (indicating). The only reason why I can see is</p> <p>6 'cause she's probably a little closer. I can't see</p> <p>7 her face or anything, but I can see that there's</p> <p>8 something there.</p> <p>9 Q. Okay. And in your left eye?</p> <p>10 A. My left eye, I probably would say I could</p> <p>11 see I would say 10 percent. If I look -- I can't</p> <p>12 see my lawyer here (indicating). And I can see you,</p> <p>13 I can see your white faces, but if I met you in the</p> <p>14 hall, I wouldn't tell -- unless I heard your voice,</p> <p>15 I could not tell who you were.</p> <p>16 Q. You told me you went to the Phillips Eye</p> <p>17 Institute to take some classes and training?</p> <p>18 A. Yes, yeah.</p> <p>19 Q. What did they do for you?</p> <p>20 A. What did they do for me? They just showed</p> <p>21 me how to use visual aids is all they did.</p> <p>22 Q. Okay.</p> <p>23 A. They did absolutely -- as far as looking</p> <p>24 into my eyes or something, absolutely nothing. They</p> <p>25 just showed me how to do visual aids.</p>
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<p>1 Q. Sauk, S-A-U-K?</p> <p>2 A. No, no, I'm not.</p> <p>3 Q. Do you know a Gary Muffelman?</p> <p>4 A. Gary Muffelman?</p> <p>5 Q. Yes.</p> <p>6 A. From that center?</p> <p>7 Q. Yes.</p> <p>8 A. Are you talking about Sauk Centre?</p> <p>9 Q. Sauk, S-A-U-K.</p> <p>10 A. Sauk Centre? Oh, that's a town.</p> <p>11 Q. Sauk Centre Agency?</p> <p>12 A. Yes, yes, yeah.</p> <p>13 Q. Okay.</p> <p>14 A. He does our income taxes.</p> <p>15 Q. Okay.</p> <p>16 A. Yeah, I know Gary Muffelman. Muffelman is</p> <p>17 what it is. M-U-F-F-E-L.</p> <p>18 Q. Yes. Do you know why Dr. Nichols sent him a</p> <p>19 letter reporting that you were legally blind?</p> <p>20 A. Yes, for tax purposes.</p> <p>21 Q. What is the status of your vision today? Do</p> <p>22 you have a, do you still -- are you still diagnosed</p> <p>23 as legally blind?</p> <p>24 A. Yes.</p> <p>25 Q. And I think you said your right eye you</p>	<p>1 Q. And did that help you at all?</p> <p>2 A. To see better? No.</p> <p>3 Q. To function better?</p> <p>4 A. No, I wouldn't say that it helped me any.</p> <p>5 What I did do is they showed me that they have these</p> <p>6 big readers, like a TV set, and I got one of them.</p> <p>7 But when you can only see a half a word at a time</p> <p>8 and then try to make a whole sentence out of it,</p> <p>9 it's very difficult. 'Cause if you only see a half</p> <p>10 of the front of the word and then the back of the</p> <p>11 word, you gotta look there, and then the next word</p> <p>12 you keep going down, it's very hard to read. And</p> <p>13 when I do that, I get a terrific eye ache from the</p> <p>14 strain, trying to strain. And I got it as large as</p> <p>15 it will go.</p> <p>16 And that's probably the only help I got from</p> <p>17 it. I didn't really get much of a help. I mean,</p> <p>18 the visual aids is for people that can -- their eyes</p> <p>19 can adjust. But my eyes don't -- my eyes are very</p> <p>20 good, it's the optic nerve behind the eyes that</p> <p>21 doesn't take the picture the way it's supposed to.</p> <p>22 Q. Are you able to watch television?</p> <p>23 A. I do, but I don't see much of it. If I get</p> <p>24 maybe about this far (indicating) from the</p> <p>25 television.</p>

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1 Q. Let the record reflect the witness has his
2 hands --
3 A. About 2 feet.
4 Q. -- 2 feet apart.
5 A. Then I can, then I can see what's going on a
6 little, you know. But if I see back in the chair
7 and stuff, it's mostly all blurred. Anything that
8 comes on the television, as far as advertising or
9 writing or any words or letters, forget it, I cannot
10 see that.
11 I can see just enough just to get around and
12 to get myself into trouble. When I go for a walk,
13 I've been almost hit three or four times because I
14 don't see the cars coming.
15 And I fell last winter three times on the
16 ice, because I couldn't see the ice.
17 So that can tell you how bad my eyes are and
18 my left eye is.
19 Q. Are you able to find your way around the
20 house?
21 A. Oh, yeah. Yeah. But I've lived there for
22 almost 50 years.
23 Q. Do you have any assistance, house
24 assistance?
25 A. My wife.

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1 Q. Anyone else?
2 A. Totally. Super lady.
3 Q. Do you dress yourself?
4 A. Oh, yeah.
5 Q. You take care of getting yourself cleaned
6 up?
7 A. Oh, yeah, I take care of myself. That --
8 Q. Do you and your wife travel?
9 A. We did a lot of traveling before my eyes.
10 And we haven't done too much since my eyes went bad
11 because she does all the driving.
12 Q. Have you flown anywhere?
13 A. Pardon?
14 Q. Have you flown anywhere?
15 A. Flown? Yes, we've flown out to Colorado.
16 Q. When was that?
17 A. Into Denver. And then we go to Grand
18 Junction -- or not Grand Junction, but where my
19 stepdaughter lives in Glenwood Springs. We drive
20 there. We fly in and then we either -- then we
21 drive or she comes and picks us up.
22 And we've flown out to New Hampshire a
23 couple of times. We have some friends out in New
24 Hampshire that we visit. And we've flown out there
25 and driven out there, so.

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1 Q. When was that?
2 A. It was after my eyes went bad. The exact
3 date I don't -- well, there was one for a 50th
4 anniversary, but I don't remember the date.
5 And we went on a driving trip last May for a
6 month. And my wife -- and these friends drove their
7 car and stayed with us for a couple of days, and
8 then we drove out, out west for a month. And my
9 wife and her husband, the other husband, did all the
10 driving.
11 Q. And when did you fly out to Colorado?
12 A. When did I last fly out to Colorado? Let's
13 see, was it the -- it was in either, it was either
14 January or February.
15 Q. Of this year?
16 A. Of this year, yes.
17 Q. Do you know a Dr. Herbert Cantrill?
18 A. No.
19 Q. Did Dr. Ferrara ever recommend that you see
20 a Dr. Herbert Cantrill?
21 A. I don't remember, but I don't think so, I
22 can't recall the name.
23 Q. Do you recall telling Dr. Ferrara that you
24 didn't see Dr. Cantrill because you thought it would
25 be a waste of your time?

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1 A. That could very well be, for as many doctors
2 that I've seen.
3 Q. But you don't know who Dr. Cantrill is or
4 what kind of doctor he is?
5 A. No, I don't, no, I don't know who he is or
6 what he does or if it was just for my eyes or. But
7 what can they do when he -- you know, when everybody
8 else, I mean it's just a waste of time and money to
9 go see another doctor that can't help you out.
10 Q. You told me earlier that you had friends who
11 provided you an article regarding Viagra and NAION.
12 A. That was --
13 Q. I'm sorry?
14 A. That was from The Week, the magazine, The
15 Week.
16 Q. Did any other, anyone else ever do any
17 research for you regarding Viagra and ischemic optic
18 neuropathy?
19 A. My stepdaughter. She had a computer and we,
20 we asked her to look up under, under eyes, this is
21 before we had a computer, under ischemic optic
22 neuropathy. And she sent us a bunch of literature
23 on it. And I think we've included that in the
24 paperwork that we have given to everybody.
25 Q. And those were the articles detailing some

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1 work from Dr. Pomeranz?
2 A. Dr. Pomeranz and maybe some other doctors, I
3 don't know.
4 Q. Do you know how many articles there were?
5 A. No.
6 Q. You provided copies of those articles to
7 Dr. Ferrara?
8 A. Yes, I did.
9 Q. Prior to giving those articles to
10 Dr. Ferrara, was he aware -- to your knowledge, was
11 he aware of reports of Viagra and ischemic optic
12 neuropathy?
13 A. I do not think so. I think -- I don't think
14 so.
15 Q. When you gave him the articles what did he
16 say?
17 A. Actually what we did is we gave him the
18 articles and put 'em in, in an envelope. Otherwise
19 you gotta make an appointment to see him. We put
20 'em in an envelope and then closed the envelope with
21 Dr. Ferrara's name on it and who it was from, and
22 asked the girl at the reception desk to give
23 Dr. Ferrara that letter or give him that envelope.
24 Q. And when was that?
25 A. The exact date, I don't remember. I don't

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1 think he realized it either until -- he may have,
2 but he didn't lead us to believe that he knew
3 anything about the Viagra problem.
4 Q. After you got those articles, did you
5 continue to take Viagra?
6 A. Nope. Nope, I haven't since I think it was
7 '04.
8 Q. How long after reading those articles?
9 A. First one.
10 Q. First one what?
11 A. The first article that we got.
12 Q. What, you stopped using Viagra?
13 A. Right now. I think it was too late.
14 Haven't taken it since.
15 Q. Did you ever tell Dr. Ferrara that you
16 weren't taking Viagra at the time you lost your
17 vision?
18 A. Did I ever tell him that I did not -- I was
19 not taking Viagra?
20 Q. At the time you lost your vision.
21 A. No.
22 Q. So if he has it in his records, would that
23 be incorrect?
24 A. That I was still taking Viagra? Yes.
25 Q. That you were not taking Viagra at the time

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1 you lost your vision.
2 A. Oh, no, I was taking Viagra when I lost my
3 vision. Maybe I don't understand your question, I'm
4 sorry.
5 Q. Did you ever tell Dr. Ferrara that you did
6 not feel that the Viagra was given at the time you
7 went blind?
8 A. I didn't -- I didn't realize that Viagra
9 could cause the loss of my vision at that time, not
10 until '04.
11 Q. Okay. But did you ever tell Dr. Ferrara
12 that you had not taken Viagra at the time you lost
13 your vision?
14 A. Oh, no, no, no, I never told him that I had
15 not taken it. I still was taking it.
16 Q. So if he has that in his records, would that
17 be inaccurate?
18 A. That I was still taking it?
19 Q. That you had not taken the Viagra at the
20 time you lost your vision.
21 A. I guess, I guess I'm missing something in
22 the --
23 Q. Let me read you a sentence from
24 Dr. Ferrara's records.
25 A. Okay.

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1 Q. "He still has erectile dysfunction, but
2 relates to me that he does not feel that the Viagra
3 was given at the time that he went blind."
4 Do you recall telling that to Dr. Ferrara?
5 A. No, I don't remember saying that to him.
6 That Viagra was not the cause of my?
7 Q. The sentence in Dr. Ferrara's records says,
8 "He still has erectile dysfunction, but relates to
9 me that he does not feel that the Viagra was given
10 at the time that he went blind."
11 Since you've stopped taking Viagra, have you
12 continued to have any trouble with erectile
13 dysfunction?
14 A. Oh, yeah.
15 Q. Have you tried any other medication?
16 A. No.
17 Q. Have you ever tried Levitra?
18 A. No.
19 Q. Have you ever tried Cialis?
20 A. No.
21 Q. Have you discussed those medications with
22 your doctors?
23 A. No.
24 Q. Have you ever tried a medication called
25 MUSE?

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Page 198	<p>1 A. No.</p> <p>2 Q. Do you recall that Dr. McEllistrem gave you</p> <p>3 a sample of MUSE?</p> <p>4 A. No, he did not.</p> <p>5 Q. He did not?</p> <p>6 A. He did not.</p> <p>7 Q. September 21st, 2006, you don't recall</p> <p>8 getting MUSE from Dr. McEllistrem?</p> <p>9 A. Nope.</p> <p>10 Q. The medication that's inserted into the</p> <p>11 opening of the penis?</p> <p>12 A. Nope. Nope. He did not give me any MUSE.</p> <p>13 Q. Did he talk to you about it?</p> <p>14 A. He had mentioned it, but he never gave me</p> <p>15 any.</p> <p>16 Q. Did he demonstrate how it worked?</p> <p>17 A. Nope. The only thing that he demonstrated</p> <p>18 is the Caverject.</p> <p>19 Q. All right.</p> <p>20 A. MUSE was -- never talked about MUSE.</p> <p>21 Q. Have you tried anything to treat your</p> <p>22 erectile dysfunction?</p> <p>23 A. Lately?</p> <p>24 Q. Yes.</p> <p>25 A. No.</p>	Page 200	<p>1 A. I cannot recall. But I don't think it was</p> <p>2 too long after I got -- read all these articles and</p> <p>3 stuff about it.</p> <p>4 Q. Did you read additional articles about --</p> <p>5 A. I didn't read, I had my wife read it.</p> <p>6 Q. Did you and your wife read additional</p> <p>7 articles about Viagra and ischemic optic neuropathy</p> <p>8 after the conversation with Dr. Pomeranz?</p> <p>9 A. No, we had, we had -- I think we had got</p> <p>10 some information from my stepdaughter off the</p> <p>11 Internet.</p> <p>12 Q. That was after the conversation with</p> <p>13 Dr. Pomeranz?</p> <p>14 A. No, I think, I think it was before.</p> <p>15 Q. Was that the same articles you showed to</p> <p>16 Dr. Ferrara?</p> <p>17 A. Yes, that was one of 'em, yes. And I think</p> <p>18 it was one of 'em from The Week.</p> <p>19 Q. From your friends in New Hampshire?</p> <p>20 A. Yes. And I don't know if we had any other</p> <p>21 ones or not.</p> <p>22 Q. So about how -- if you last spoke to</p> <p>23 Dr. Pomeranz in July of 2005, how long after that</p> <p>24 was it that you spoke to the lawyers for the first</p> <p>25 time?</p>
Page 199	<p>1 Q. Since stopping taking Viagra, how often do</p> <p>2 you attempt sexual relations?</p> <p>3 A. When I think I can get an erection. Now</p> <p>4 that's kind of vague, but that --</p> <p>5 Q. How often is that?</p> <p>6 A. It's not very often anymore.</p> <p>7 Q. And those times that you tried, are you able</p> <p>8 to get an erection?</p> <p>9 A. Sometimes yes and sometimes no.</p> <p>10 Q. When's the last time you were able to engage</p> <p>11 in sexual activity?</p> <p>12 A. About two weeks ago.</p> <p>13 Q. And before that?</p> <p>14 A. Probably pretty much the same time. It's</p> <p>15 been getting less and less as time goes on.</p> <p>16 Q. So about every two weeks or so now?</p> <p>17 A. I would, I would say so, yeah.</p> <p>18 Q. We talked earlier about your conversations</p> <p>19 with Dr. Pomeranz in May and July of 2005.</p> <p>20 A. Mm-hmm.</p> <p>21 Q. How long after those conversations did you</p> <p>22 first talk to a lawyer about potentially bringing a</p> <p>23 lawsuit in this case?</p> <p>24 A. How long after?</p> <p>25 Q. Mm-hmm.</p>	Page 201	<p>1 A. I think we had talked to a friend, if he</p> <p>2 could recommend a firm that would be interested in</p> <p>3 taking a case like this. And he gave us the name of</p> <p>4 a firm, but they, they weren't interested.</p> <p>5 Q. What law firm was that?</p> <p>6 A. I'm trying to think. It's -- bear with me.</p> <p>7 Robins. Robins? Robins.</p> <p>8 Q. Robins, Kaplan?</p> <p>9 A. Robins, Kaplan.</p> <p>10 Q. And Robins, Kaplan was not interested you</p> <p>11 said?</p> <p>12 A. No, they, they said that -- they gave me</p> <p>13 this other name to contact.</p> <p>14 Q. Okay, what other name did they give you?</p> <p>15 A. These people.</p> <p>16 Q. At Zimmerman Reed?</p> <p>17 A. Yes.</p> <p>18 Q. And how long after you contacted Robins,</p> <p>19 Kaplan did you contact Zimmerman Reed?</p> <p>20 A. I think it was shortly after that. Because</p> <p>21 the time was getting very short for filing a</p> <p>22 lawsuit.</p> <p>23 MS. LESKIN: Let's mark this as Exhibit</p> <p>24 2.</p> <p>25 (Martin Deposition Exhibit No. 2</p>

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1 marked for identification.)
2 Q. We've marked as Martin Exhibit 2 a copy of
3 the complaint filed in this matter. And I
4 understand your difficulties in seeing it, but do
5 you recall reviewing the complaint with your wife at
6 any time?
7 A. You mean about filing a lawsuit?
8 Q. Yes.
9 A. Well, we talked about it.
10 Q. The document that I gave you is the document
11 that's called a "Complaint" and that's filed in the
12 court to start this lawsuit.
13 A. Mm-hmm.
14 Q. Did you and your wife review the physical
15 document before it was filed in court?
16 A. I think we did.
17 Q. Okay, this is stamped, and you can see the
18 top page, or your attorney can point out to you the
19 top page, that it was filed with the court on March
20 15th, 2006, in the U.S. District Court in
21 Minneapolis?
22 A. Yes.
23 Q. About how long before the filing of this
24 complaint on March 15th, 2006 did you have your
25 first contact with the law firm of Zimmerman Reed?

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1 A. I couldn't tell you, but my wife could. I
2 think she's got that on -- on record. I think she's
3 got that on her records.
4 Q. Does she keep a journal or a notebook?
5 A. She keeps a, she keeps a pretty accurate
6 documentation of what we, of what we've done and
7 what we've gone through.
8 MS. LESKIN: If she could bring that
9 with her on Thursday, that may expedite some things.
10 MS. HAUER: She actually brought them
11 today, so I'm making copies, so I will bring them.
12 MS. LESKIN: Great.
13 BY MS. LESKIN:
14 Q. Other than the contact you have had with
15 your lawyers, did anyone else suggest that you file
16 a lawsuit against Pfizer?
17 A. I didn't tell anybody that I was going to
18 file a lawsuit.
19 Q. So the only communications you've had
20 regarding the lawsuit were between you and your wife
21 and your lawyers?
22 A. Between me and my wife and my -- my wife and
23 my stepson. His father is an attorney and that's
24 the one who we asked what would be a good attorney
25 to see.

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1 Q. And is that in the Minneapolis area?
2 A. My -- Robins?
3 Q. No, your stepson's father.
4 A. He was, yeah, he's an Anoka County
5 prosecuting attorney. He was. He's retired now.
6 Q. And did he -- did you discuss with him
7 whether or not you should bring a lawsuit in this
8 case?
9 A. No, I didn't, I asked him what would be a
10 good lawyer to talk to. I didn't tell him about
11 what or anything.
12 Q. Did you discuss with your stepson about
13 whether or not that you should bring a lawsuit?
14 A. No.
15 Q. Did you discuss with any of your children?
16 A. No, none of my children I don't even think
17 know that I have a lawsuit against.
18 Q. Did you discuss with your stepdaughter as to
19 whether or not you should bring a lawsuit?
20 A. No, we just asked for information.
21 Q. Your friends in New Hampshire who sent you
22 the article from The Week?
23 A. Yes.
24 Q. Did you discuss with them whether or not you
25 should bring a lawsuit?

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1 A. I can't really say if -- my wife talks to
2 her quite a bit, and I can't say if she told them
3 that we were filing a lawsuit or not.
4 Q. Did you talk to any of your doctors about
5 whether you should file a lawsuit?
6 A. No. The only one that knows -- that I know
7 of, is Dr. Ferrara knows that I filed a lawsuit. I
8 have not talked to any of the other doctors about
9 it.
10 Q. Did Dr. Ferrara ever express concern that
11 you were going to file a lawsuit against him?
12 A. He was concerned. I'm sure -- he didn't say
13 it, but I'm sure he was concerned. Because I
14 understand that when -- after we gave him all of the
15 information and we tried to get my medical records,
16 that they weren't available because he had 'em at
17 home. And we didn't get 'em back for quite some
18 time until -- I don't know how long he had 'em.
19 Q. When was that?
20 A. That was probably soon after we had given
21 him this information on Viagra.
22 Q. Before you actually filed the lawsuit
23 against Pfizer?
24 A. I think it was, yes.
25 Q. Did you ever tell Dr. Ferrara that you were

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1 or were not going to sue him?
2 A. No. No. He was concerned that I was going
3 to file a lawsuit against him. I think. Didn't
4 say, he didn't say that, but from the inferences I
5 think that he was concerned.
6 Q. Did you file a lawsuit against Dr. Ferrara?
7 A. No.
8 Q. Have you filed a lawsuit against anyone
9 other than Pfizer --
10 A. No.
11 Q. -- regarding your vision loss?
12 A. No.
13 Q. Have you ever spoken to anyone at Pfizer?
14 A. No.
15 Q. Have you ever filed -- sent any information
16 to anyone at Pfizer regarding your experience?
17 A. Not to Pfizer. We did to -- with the health
18 department.
19 Q. The federal -- the Food & Drug
20 Administration?
21 A. Yes.
22 Q. You filled out a MedWatch report?
23 A. We sent -- I forget what we sent them, but
24 we sent them some information about my, the loss of
25 my eyes and what we had figured out what had caused

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1 it.
2 Q. Was there a form you filled out?
3 A. It was a form, if I'm not mistaken, that
4 they sent us.
5 Q. Did you keep a copy of what you filled out?
6 A. I do not know if my wife did or not.
7 MS. LESKIN: If she does, we'd like a
8 copy of whatever forms they've sent to the
9 government.
10 MS. HAUER: I will ask.
11 BY MS. LESKIN:
12 Q. Other than the three articles that you -- or
13 the couple of articles that you identified for me
14 that you received from The Week and from your
15 daughter-in-law, have you looked, you or your wife
16 to your knowledge, read any articles about Viagra
17 and ischemic optic neuropathy?
18 A. You mean -- only from the newspaper. And
19 I'm not sure about any other books that we have seen
20 about it.
21 Q. I asked you if you ever -- did you ever read
22 anything from Pfizer regarding Viagra?
23 A. You mean about the cause of the loss of
24 eyes?
25 Q. Anything about Viagra.

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1 A. Not from Pfizer I haven't.
2 Q. Have you spoken to any sales
3 representatives?
4 A. Oh, absolutely not.
5 Q. Is there anyone else other than your lawyers
6 who you've spoken to about Viagra, other than your
7 doctors and your wife and your friends in New
8 Hampshire and your daughter-in-law?
9 A. My one daughter.
10 Q. Your stepdaughter?
11 A. My kids don't know. I never talked to them
12 about it, what happened to my eyes.
13 Q. Is there anyone else that you have spoken
14 with?
15 A. Not about my eyes or the loss or what caused
16 the loss of my eyes, no.
17 Q. Is there anyone else you would have spoken
18 with about Viagra?
19 A. Haven't talked to anybody about Viagra.
20 Just to people that you had just mentioned.
21 Q. Do you ever see any advertisements for
22 Viagra?
23 A. See 'em all the time on TV and in the paper.
24 Q. Prior to the loss of your vision did you see
25 any ads for Viagra?

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1 A. Yes.
2 Q. Which ads were those?
3 A. On the TV.
4 Q. And at the time that you saw the ads, were
5 you already taking Viagra?
6 A. I think I was.
7 Q. Did you rely on those ads to continue taking
8 Viagra?
9 A. The new ads or the old ads?
10 Q. Any ads.
11 A. I think I had already been taking Viagra at
12 that time.
13 Q. And you planned on continuing to take it as
14 of that time?
15 A. At that time.
16 MS. LESKIN: Let me have a couple
17 minutes and maybe I'll wrap up.
18 MS. HAUER: Okay.
19 (Break from 3:21 p.m. to 3:30 p.m.)
20 BY MS. LESKIN:
21 Q. Ready? Back on the record.
22 Mr. Martin, we did locate a series of
23 documents that were attached to your fact sheet that
24 you produced. These seem to be a record of some
25 notes and some articles.

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<p>1 Do you know -- and I'll give these to you to</p> <p>2 look through real quick. Do you know who was</p> <p>3 responsible for collecting these articles and these</p> <p>4 documents?</p> <p>5 A. Oh, I think my wife would be the -- what</p> <p>6 articles are they?</p> <p>7 MS. HAUER: There's some paperwork on</p> <p>8 ischemic optic neuropathy.</p> <p>9 Q. A series of articles on ischemic optic</p> <p>10 neuropathy, on the optic nerve, on Viagra, on</p> <p>11 Dr. Pomeranz, that looks to be your wife's notes</p> <p>12 about the conversations with Dr. Pomeranz's office.</p> <p>13 A. Okay.</p> <p>14 Q. Are these articles that you collected or</p> <p>15 that your wife collected?</p> <p>16 A. My wife would have had to collect them.</p> <p>17 Q. And is she the person who could best</p> <p>18 identify what they are and where you got them from?</p> <p>19 A. Yes.</p> <p>20 Q. And is that something we'd probably be</p> <p>21 better off discussing with her on Thursday?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Is she responsible for keeping track</p> <p>24 of your medical appointments now?</p> <p>25 A. Yes.</p>	<p>1 A. Because you're just in and out of there</p> <p>2 right away, you know. Or, or if they drew, excuse</p> <p>3 me, drew blood or draw blood, then she doesn't come</p> <p>4 in, she just.</p> <p>5 Q. And if it's for an exam she does come in?</p> <p>6 A. For an exam she usually comes in.</p> <p>7 Q. And why is that?</p> <p>8 A. Oh, she just, you know, we just -- so she</p> <p>9 says sometimes I don't tell her everything what the</p> <p>10 doctor talks about. So then she gets a firsthand</p> <p>11 view of what's going on.</p> <p>12 Q. Have you always been completely honest with</p> <p>13 your doctors?</p> <p>14 A. I think so, yes. I don't think I've ever</p> <p>15 lied to 'em.</p> <p>16 Q. Have you ever withheld information from any</p> <p>17 of your doctors?</p> <p>18 A. Withheld information? I don't, I don't</p> <p>19 think so.</p> <p>20 Q. You try to be as open and honest as you can</p> <p>21 with your doctors?</p> <p>22 A. I try to be, yeah. Otherwise what's the</p> <p>23 sense of going? You know.</p> <p>24 MS. LESKIN: That's all I have at this</p> <p>25 time. So thank you for coming in and spending the</p>
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<p>1 Q. And she takes you to and from your various</p> <p>2 appointments?</p> <p>3 A. Yes.</p> <p>4 Q. And when it's time to call to make an</p> <p>5 appointment, do you call or does she call?</p> <p>6 A. She calls.</p> <p>7 Q. So basically medical history and the</p> <p>8 collection of these articles since your vision</p> <p>9 problems began would be best discussed with her in</p> <p>10 terms of specifics?</p> <p>11 A. It would be for her, yes, from her.</p> <p>12 Q. Since your vision problems began, when you</p> <p>13 go to the doctor, does she join you in the doctor's</p> <p>14 office?</p> <p>15 A. Sometimes she goes in and sometimes she</p> <p>16 doesn't.</p> <p>17 Q. Okay.</p> <p>18 A. It all depends upon what I'm going in for,</p> <p>19 you know.</p> <p>20 Q. Okay. For example?</p> <p>21 A. If it's for an exam, then she comes in once</p> <p>22 in a -- she doesn't come in every time. It's just</p> <p>23 -- if it's just for a blood pressure check or</p> <p>24 something like that, then she doesn't go in.</p> <p>25 Q. Okay.</p>	<p>1 day with me.</p> <p>2 THE WITNESS: That's it?</p> <p>3 MS. LESKIN: That's it.</p> <p>4 MS. HAUER: I have no questions.</p> <p>5 THE REPORTER: Reading and signing?</p> <p>6 MS. LESKIN: Let's go off the record</p> <p>7 for a second.</p> <p>8 (Discussion held off the record.)</p> <p>9 MS. HAUER: I'm going to talk about it</p> <p>10 when we get back to our office and let you know</p> <p>11 tomorrow.</p> <p>12 (Deposition concluded at 3:34 p.m.)</p> <p>13</p> <p>14 (REPORTER'S NOTE: Ms. Hauer informed</p> <p>15 the reporter off the record on August 6, 2008 that</p> <p>16 Mr. Martin would be waiving his right to read and</p> <p>17 sign.)</p> <p>18 *****</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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REPORTER'S CERTIFICATE

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

I hereby certify that I reported the
deposition of RICHARD MARTIN on August 5, 2008 in
Minneapolis, Minnesota, and that the witness was by
me first duly sworn to tell the whole truth;

That the testimony was transcribed by me and
is a true record of the testimony of the witness;

That the cost of the original has been
charged to the party who noticed the deposition, and
that all parties who ordered copies have been
charged at the same rate for such copies;

That I am not a relative or employee or
attorney or counsel of any of the parties, or a
relative or employee of such attorney or counsel;

That I am not financially interested in the
action and have no contract with the parties,
attorneys, or persons with an interest in the action
that affects or has a substantial tendency to affect
my impartiality;

That the right to read and sign the
deposition by the witness was waived.

WITNESS MY HAND AND SEAL THIS 15th day of
August, 2008.

Mary P. Mitchell, RDR, CRR, CCP
Notary Public, Dakota County, Minnesota
My commission expires January 31, 2010.

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